HOUSE OF REPRESENTATIVES—*Monday, September 27, 1993*

The House met at 1 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, from whom comes every good gift, we pray that we will use the resources of power to preserve what is good and to correct that which is evil. May not our own selfishness or our narrow vision cause us the misuse of any authority so it hurts or hinders others. Give us the strength, O God, so we will use our abilities and our energy so that in all things, justice will flow down as waters and righteousness like an everflowing stream. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Colorado [Mrs. SCHROEDER] come forward and lead the House in the Pledge of Allegiance.

Mrs. SCHROEDER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 27, 1993.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, September 24, 1993 at 2:52 p.m.: that the Senate agreed to the House amendment to S. 1130 and passed without amendment H.R. 2074 and H.R. 3051.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 27, 1993.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Monday, September 27, 1993 at 10:40 a.m. and said to contain a message from the President whereby he transmits a copy of an Executive order entitled "Prohibiting Certain Transactions Involving UNITA."

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk.

PROHIBITING CERTAIN TRANSACTIONS INVOLVING UNITA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–138)

The SPEAKER laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. section 1703(b), and section 301 of the National Emergencies Act, 50 U.S.C. section 1631, I hereby report that I have exercised my statutory authority to declare a national emergency with respect to the actions and policies of the National Union for the Total Independence of Angola ("UNITA") and to issue an Executive order prohibiting the sale or supply to Angola, other than through designated points of entry, or to UNITA, of arms and related materiel and petroleum and petroleum products, regardless of their origin, and activities that promote or are calculated to promote such sale or supply. These actions are mandated in part by United Nations Security Council Resolution No. 864 of September 15, 1993.

The Secretary of the Treasury is authorized to issue regulations in exercise of my authorities under the International Emergency Economic Power Act and the United National Participation Act, 22 U.S.C. section 287c, to implement these prohibitions. All Federal agencies are also directed to take actions within their authority to carry out the provisions of the Executive order.

I am enclosing a copy of the Executive order that I have issued. The order was effective immediately upon its signature on September 26, 1993.

I have authorized these measures in response to the actions and policies of UNITA in continuing military actions, repeated attempts to seize additional territory, and failure to withdraw its troops from the locations that it has occupied since the resumption of hostilities, in repeatedly attacking United Nations personnel working to provide humanitarian assistance, in holding foreign nationals against their will, in refusing to accept the results of the democratic elections held in Angola in 1992, and in failing to abide by the "Acordos de Paz." The actions of UNITA constitute an unusual and extraordinary threat to the foreign policy of the United States.

On September 15, 1993, the United Nations Security Council adopted Resolution No. 864, condemning the activities of UNITA and demanding that UNITA accept unreservedly the results of the democratic election of September 30, 1992, and abide fully by the "Acordos de Paz." The resolution decides that all states are required to prevent the sale or supply of arms and related materiel and petroleum and petroleum products to Angola, other than through named points of entry specified by the Government of Angola. The measures we are taking express our outrage at UNITA's continuing hostilities and failure to abide by the outcome of Angola's democratic election.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *September 26, 1993.*

EXECUTIVE ORDER

PROHIBITING CERTAIN TRANSACTIONS INVOLVING UNITA

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and section 301 of title 3, United States Code, and in view of United Nations Security Council Resolution No. 864 of September 15, 1993,

I, WILLIAM J. CLINTON, President of the United States of America, take notice of the United Nations Security Council's determination that, as a result of UNITA's military actions, the situation in Angola constitutes a

threat to international peace and security, and find that the actions and policies of UNITA, in continuing military actions, repeated attempts to seize additional territory and failure to withdraw its troops from locations that it has occupied since the resumption of hostilities, in repeatedly attacking United Nations personnel working to provide humanitarian assistance, in holding foreign nationals against their will, in refusing to accept the results of the democratic elections held in Angola in 1992, and in failing to abide by the "Accordos de Paz," constitute an unusual and extraordinary threat to the foreign policy of the United States, and hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. The following are prohibited, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted before the effective date of this order, except to the extent provided in regulations, orders, directives, or licenses which may hereafter be issued pursuant to this order:

(a) The sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related material of all types, including weapons and ammunition, military vehicles and equipment and spare parts for the aforementioned, as well as petroleum and petroleum products, regardless of origin:

(1) to UNITA;

(2) to the territory of Angola, other than through points of entry to be designated by the Secretary of the Treasury, or any activity by United States persons or in the United States which promotes or is calculated to promote such sale or supply.

(b) Any transaction by any United States person that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order.

Sec. 2. For purposes of this order:

(a) The term "United States person" means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States (including foreign branches), or person in the United States;

(b) The term "UNITA" includes;

(1) the Uniao Nacional para a Independencia Total de Angola (UNITA), known in English as the "National Union for the Total Independence of Angola;"

(2) the Forcas Armadas para a Liberacao de Angola (FALA), known in English as the "Armed Forces for the Liberation of Angola;" and

(3) any person acting or purporting to act for or on behalf of any of the foregoing, including the Free Angola Information Service, Inc.

Sec. 3. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by the International Emergency Economic Powers Act and the United Nations Participation Act as may be necessary to carry out the purpose of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government.

Sec. 4. Nothing contained in the order shall be construed to supersede the requirements established under the Arms Export Control Act (22 U.S.C. 2751 *et seq.*) and the Export Administration Act (50 U.S.C. App. 2401 *et seq.*) to obtain licenses for the exportation from the United States or from a third country of any goods, data, or services subject to the export jurisdiction of the Department of State or the Department of Commerce.

Sec. 5. All Federal agencies are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order, including suspension or termination of licenses or other authorizations in effect as of the date of this order.

Sec. 6. Nothing contained in this order shall create any right or benefit, substantive, or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 7. (a) This order shall take effect immediately.

(b) This order shall be transmitted to the Congress and published in the *Federal Register.*

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 26, 1993.*

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 38. An act to establish the Jemez National Recreation Area in the State of New Mexico, and for other purposes.

H.R. 2243. An act to amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes.

H.R. 2517. An act to establish certain programs and demonstrations to assist States and communities in efforts to relieve homelessness, assist local community development organizations, and provide affordable rental housing for low-income families, and for other purposes.

H.R. 2608. An act to make permanent the authority of the Secretary of Commerce to conduct the quarterly financial report program.

H.R. 2491. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1994, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2491) an act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1994, and for other purposes, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Ms. MIKULSKI, Mr. LEAHY, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. KERREY, Mrs. FEINSTEIN, Mr. BYRD, Mr. GRAMM, Mr. D'AMATO, Mr. NICKLES, Mr. BOND, Mr. BURNS, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2493) an act making appropriations for agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1994, and for other purposes, and agrees to the amendments of the House to the amendments of the Senate numbered 8, 28, 36, 40, 74, 78, 111, 136, 137, and 142.

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate numbered 29 with an amendment and the Senate agrees to the amendment of the House to the amendment of the Senate numbered 164 with an amendment.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1493. An act to support the transition to nonracial democracy in South Africa.

The message also announced that pursuant to Public Law 93–415, as amended by Public Law 102–586, the Chair, on behalf of the majority leader, after consultation with the Republican leader, announces the appointment of Lisa Beecher of Maine, to the Coordinating Council on Juvenile Justice and Delinquency Prevention, vice Ronald Costigan, resigned.

The message also announced that pursuant to Public Law 102–166, the Chair, on behalf of the majority leader, appoints Ann Szostak of Maine, as a member of the Glass Ceiling Commission, vice Joanne D'Arcangelo, resigned.

UNITED AUTO WORKERS FORMER PRESIDENT ENDORSES NAFTA

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, given the flurry of issues challenging

the Congress these days, if it is Monday, it must be NAFTA.

Mr. Speaker, I want to call to your attention a news item that will be of great interest to the Congress.

Last week Douglas Fraser, former president of the United Auto Workers, endorsed NAFTA.

Speaking at Georgetown Law School, Mr. Fraser said that opposition to NAFTA is based on emotion, fear, and insecurity.

According to Fraser, NAFTA will uplift our country, uplift the Mexicans and make them better customers for American products.

The fact is that for the auto industry, NAFTA will be a very good thing. It will be a huge improvement in the status quo which, because of Mexico's high protective tariffs, strictly limits the sale of United States-made automobiles.

Passage of NAFTA would remove these barriers and, according to the Department of Commerce, could mean up to $1 billion in potential new auto related sales in the first year of the agreement's enactment. This translates into the creation of roughly 20,000 jobs in year 1.

The irony is that NAFTA will help rank-and-file union members—the same people opposing the agreement.

In spite of the facts, I know Mr. Fraser's decision to speak out on the issue of NAFTA was not easy. It would have been easy for him to remain silent on this controversial issue.

I applaud Mr. Fraser's courage and intellectual honesty on NAFTA.

He knows better than anybody that passage of NAFTA is so critical.

We can not afford to retreat behind our borders. Yet by opposing NAFTA this is precisely what Perot and other protectionist opponents are seeking to do.

History tells us that we will pay dearly if NAFTA is defeated.

We can not put off making tough decisions by sticking our heads in the sand.

Leadership is about making decisions for the long-term good of the country.

We can not do that by retreating. We must do it by competing.

Mr. Fraser's recent endorsement of NAFTA reaffirms this.

INTERNATIONAL PEACEKEEPING AS U.S. FOREIGN POLICY

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, this morning President Clinton addressed the United Nations General Assembly in what could well be the seminal foreign policy address of his administration. In a clear and concise manner, he outlined his vision for the United States in the international community, and the proper role of international peacekeeping.

The President properly noted that, faced with innumerable requests for peacekeeping assistance, the United States at the United Nations must ask tough questions before dispatching its troops for peacekeeping activities in far-flung trouble spots. Is there a genuine threat to international peace? Are the mission objectives clearly defined? Does the operation have an identifiable end point? How much will the operation cost?

To these commonsense—and ofttimes ignored—guidelines, this Member would raise one additional consideration for the Clinton administration to ask itself, is it in our national interest to be engaged? If we do not have satisfactory answers to all of these questions, The United States should refuse to participate.

Mr. Speaker, these were precisely the questions that should have been asked—but apparently were not—before the United States signed on to the U.N.'s nation-building efforts in Somalia. With unclear objectives, spiraling costs, and no clear end point, the Somalia operation increasingly seems misguided and ill-conceived.

What began as a sharply limited, perfectly justifiable, and short-term humanitarian mission has suddenly become an adventure in nation building. We came to Somalia as heroes, but are now engaged in a brutal civil war where the United Nations is seen by Somalis in their capital city as an oppressive occupation force. And now, incredibly, because the current force is not able to pacify Mogadishu, the U.N. commander is asking for more troops. Another brigade is needed, we are now being told, and the Somalia capital can be pacified. Does that sound like Vietnam in the Johnson administration?

Mr. Speaker, this Member sincerely hopes that the administration can implement the sensible peacekeeping policy that was outlined by the President this morning. President Clinton should follow his own advice—and in the case of Somalia—follow it retroactively. Our troops must all be withdrawn from Somalia now.

CONGRESS SHOULD SPEND TIME CREATING JOBS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there is not an American television, telephone, typewriter, or VCR made in America. Most of them have moved to Mexico.

So last week General Motors announced they were laying off another 100,000 workers. Tell me, Mr. Speaker, how many of those workers in Mexico will be laid off by General Motors? Not one. All those 100,000 will be Americans.

Let us tell it like it is. American jobs are already melting away to Mexico. NAFTA will make them disappear completely. And here is how it works: They will send them back on Mexican trucks, that will not even be subject to the same regulations our truck drivers in America face every day.

Think about it, ladies and gentlemen.

There will be some speed bumps though. They will continue to have unemployed workers and their kids laying in the streets being slaughtered because as the end result they cannot find a job.

If we want to look at crime and problems in America, maybe Congress should spend some time on creating some jobs.

CLINTON PLAN NOT THE ONLY PLAN FOR HEALTH CARE REFORM

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, health care is on the front burner, and I am pleased about that. It has been on the front burner for some time, as a matter of fact. Many of us in the Congress have been working on health care. The States have done a great deal, and I suspect over time will do more, as a matter of fact, than will the Federal Government.

So I am really offended by the idea that doing nothing is the alternative to the administration's plan. Doing nothing is not the alternative. Indeed, there are a number of things that we could do and should be doing that would bring about fundamental change, and would do it now.

□ 1310

They could be done quickly, they could be done, many of them, without acts of Congress. They cost very little, and they do not need to be held back until we go through this extended debate about the increased bureaucracy and the billions of dollars of costs that go into the administration. What are they? Real tort reform, for one, which could reduce costs substantially. The administrative task force, started last year, has some ideas about how you can come up with a single sheet. It can be done right now.

Equal reimbursement for Medicare and Medicaid in States like mine, in Wyoming, which are reimbursed less than others. If we want to attract physicians to rural areas, that will do it. Fundamental insurance reform can be done and can be done now.

Mr. Speaker, the debate and the conflicts over this administration's plan will go for a long time. There are things we can do that can change health care for the American people. We should do it and do it now.

HEALTH CARE REFORM: WOMEN SHOULD BE ON AN EQUAL BASIS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, America's women are going to be listening very carefully to this health care debate because over and over again, if there has been any health care rationing, it has been on women and if there has been any group that has been subject to political decisions rather than medical decisions, it has been women, and they are tired of it.

If this train leaves the station, and we certainly hope that it does, women must be in the same class seats that men are. One of the things that makes us very nervous is the fact that reproductive services are not defined in the basic package. Right now, as a legacy of the Reagan era, you can give reproductive money to institutions that only believe in natural family planning. I do not know what the rest of the people call folks who use natural family planning, but in Colorado we call them parents.

So we do not consider that real reproductive choices.

So we want to see that definition spelled out so that the Reagan legacy does not continue on and that every woman will have a full range of reproductive services in her basic service package and there will not be any games played.

GOVERNMENT-RUN HEALTH CARE

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, last week President Clinton prescribed a new miracle drug to cure our health care woes—a Government run and controlled health care system. Peddling the snake oil, the President wants to force feed this untried, untested, lab experiment whose side effects are still unknown to a vulnerable group of 250 million Americans.

We do not even allow the simplest aspirin and other medicines to enter the market before being thoroughly tested and tried out. So now why are we being forced to swallow this radical Government takeover of health care without any idea of how it will work in the real world.

Mr. Speaker, at the very least we need to test this new miracle drug the President calls reform. If not, we can only hope that the cure is not worse than the disease.

THE PERILS OF LEGISLATING ON AN APPROPRIATION BILL

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker and colleagues, I take this time to inform the Members of the perils of legislating on an appropriation bill without consideration of the legislative language. Recently, during consideration of the conference report on agriculture appropriations, the House took action on the honey program, and the Senate has acted on the Wool and Mohair Act. What has failed to be mentioned is that unless you fix the legislative side, you may do more harm than you intended to.

The honey amendment that was passed on an appropriations bill is winding up to cost more than the program itself now costs. The wool and mohair will unemploy or put on unemployment thousands of workers, mostly Hispanic, native Americans, or Basques in the far West, and no one is looking at the impact. It is very good to get a headline or to get a radio spot that says, "We cut that Wool and Mohair Act." But what about the people that are going to be unemployed, the Indian tribes that will be without resources? What about the people in those vast lands that are not good for anything else?

So I am telling my colleagues, be cautious and be careful. Look to your legislative committees before you act on appropriations bills because the perils are not worth the effort and you may wind up doing more harm than good.

TODAY IS THE DAY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, thanks largely to Congressman JIM INHOFE, today is the day that we finally have opportunity to vote on legislation that will begin to open the doors of the people's House to the people's scrutiny.

Mr. Speaker, the legislation I am talking about is House Resolution 134 and it will reform an arcane rule that has allowed a few Members to keep legislation bottled up in the legislative process.

To put it in simple terms, there is a monopoly of power in this House and in that game of Monopoly, this legislation is a "Get Out of Jail Free" card to bills the American people want, but some House leaders do not.

It is ironic that this legislation was supposed to fall prey to the very process it is intended to correct. Not until 218 Members had signed a discharge petition did House Resolution 134 made it to the House floor. Until then, it was just another good piece of legislation that the leaders of this House would never tell their constituents they opposed, but which they would never have to support.

Today all that will change. Members of Congress will now take a step toward being more accountable to their constituents. Not everyone in this House is happy about today's turn of events, but certainly the American people should be.

BIG DEFENSE BUDGET NO PROTECTION AGAINST REAL ENEMIES

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FURSE. Mr. Speaker, this week this Congress will approve a defense budget that totals $264 billion.

This budget will include every exotic weapon you could possibly think of and the most ironic thing about it will be the fact that we really have no enemy that those weapons are designed to kill. I do not mean that the United States has no enemies but they are not the ones that the defense budget will protect us against.

Our enemies are very real and they are very scary but their names are not the names of foreign powers. Our enemies are: decaying schools, neglected children, violent streets, too few jobs, disgraceful housing.

We need a national defense budget that addresses our real enemies.

UNICEF has just published a report that shows that 20 percent of U.S. children live below the poverty level; that is twice the rate of any other industrialized nation. That is a disgrace and I for one refuse to accept these skewed priorities.

TRIBUTE TO A HERO: MICHAEL DOPHEIDE OF OMAHA

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker and colleagues, I just want to tell all of you how proud we are of Michael Dopheide of Omaha, who was a hero in the train disaster that occurred late last week.

I have here an article that appeared in yesterday's New York Times that recites in some detail the individual acts of heroism that Michael participated in in the early morning darkness after the accident occurred, where he led more than 30 people to safety from the derailed Amtrak train.

This is outlined in some detail. Let me just read a paragraph or two that I have time for under these limited rules:

Michael Dopheide will return home to Omaha on Sunday not just as a survivor of Amtrak's deadliest accident but also as a hero.

Passengers say Mr. Dopheide, covered in diesel fuel and menaced by burning debris,

guided more than 30 people to safety from a partly submerged coach of the derailed Sunset Limited early Wednesday.

And the article goes on to detail Mr. Dopheide's acts of heroism. We are very proud to have such an Omahan who played such an important role in this disaster.

[From the New York Times, Sept. 26, 1993]

TRAIN JOURNEY INTO DISASTER AND HEROISM

MOBILE, AL, September 24.—Michael Dopheide will return home to Omaha on Sunday not just as a survivor of Amtrak's deadliest accident but also as a hero.

Passengers say Mr. Dopheide, covered in diesel fuel and menaced by burning debris, guided more than 30 people to safety from a partly submerged coach of the derailed Sunset Limited early Wednesday.

"I just did what anybody else would have done in the same position," said Mr. Dopheide, a 26-year-old former lifeguard who recently graduated from the DePaul University law school in Chicago.

He said he had removed his glasses and shoes to get some sleep when the train crashed, throwing the coach into the water at a 45-degree angle. In the confusion that followed, he lost his glasses. "I was practically blind through the whole ordeal," he said Friday from his hotel room here.

Mr. Dopheide, who was traveling from Los Angeles to Miami for a vacation, was dozing in his seat shortly after 3 A.M., when the train derailed on a 7-foot-high bridge and crashed into Big Bayou Canot. Thrown from his seat, he found himself amid chaos: water was rapidly rising in the coach, smoke was pouring in from a fire in the next car and passengers were struggling to open an emergency exit.

Someone knocked out a window, and Mr. Dopheide was among the first to escape into the dark bayou, he said.

FEARED COACH WOULD SINK

Burning railroad ties and other debris from the bridge floated nearby, he said, spitting sparks that stung his bare arms. He could see that the car behind his was submerged, and he said he feared his coach would also sink.

"I knew we had to get everybody out of there as soon as we could," he said.

A wooden beam from the bridge had impaled the coach, and Mr. Dopheide wrapped his left arm around it for support. With his right arm, he said, he pulled other passengers through the window from which he had escaped.

"We could only work one at a time," he said, "I was just trying to get everybody going." He said it took about 30 minutes to empty the car.

The passengers had to jump about six feet into the water and then swim 10 feet to a bridge piling, where they clung to a steel girder until a rescue boat arrived about an hour after the accident. Debris kept floating into the water as the passengers were jumping, but Mr. Dopheide said he kicked it away with his bare feet. His only injuries were scratches to his feet and left arm.

Adele Massaro, a passenger from San Antonio, told The Mobile Press-Register: "The only thing that kept me going was his calm voice. I just followed his voice to safety."

FIRE, "CROCODILES" AND SNAKES

Mrs. Massaro was one of three or four passengers could not swim well enough to reach the steel girder. Mr. Dopheide, who worked as a lifeguard in the summer of 1986 and is certified as a water-safety instructor, said he told them to put their arms around his neck, then swam them to the girder.

Most passengers were calm, Mr. Dopheide said. But diesel fuel from the train's engines had spread across the bayou and soaked the passengers, who worried about a fire, "along with the crocodiles and the snakes," Mr. Dopheide said.

"Having all those threats at once was kind of overwhelming," he said.

Since the crash, Mr. Dopheide has abandoned his plan to visit Miami. Instead, he will fly home to Omaha. There, he said he wants to "settle down and collect my thoughts."

□ 1320

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. RICHARDSON). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the end of legislative business today.

PRINTING OF STATEMENTS IN TRIBUTE TO LATE JUSTICE THURGOOD MARSHALL

Mr. MANTON. Mr Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 133) providing for the printing of a collection of statements made in tribute to the late Justice Thurgood Marshall, as amended.

The Clerk read as follows:

H. CON. RES. 133

Resolved by the House of Representatives (the Senate concurring), That a collection of statements made in tribute to the late Justice Thurgood Marshall, together with related materials, shall be printed as a House document, with illustrations and suitable binding. The collection shall be prepared under the direction of the Joint Committee on Printing.

SEC. 2. In addition to the usual number, there shall be printed the lesser of—

(1) 50,000 copies (including 1,000 casebound copies) of the document, of which 33,440 copies (including 440 casebound copies) shall be for the use of the House of Representatives, 7,600 copies (including 100 casebound copies) shall be for the use of the Senate, and 8,960 copies (including 460 casebound copies) shall be for the use of the Joint Committee on Printing; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $66,988, with distribution to be allocated in the same proportion as described in paragraph (1), except that in no case shall the number of casebound copies be less than one per Member of Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MANTON] will be recognized for 20 minutes, and the gentlewoman from Washington [Ms. DUNN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 133 would authorize the printing of a collection of statements made in tribute to the late Justice Thurgood Marshall, as prepared under the direction of the Joint Committee on Printing. Mr. Speaker, this collection will pay proper homage to a man who dedicated his life to justice.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution would simply allow for a small tribute to a man who is a beacon of the civil rights community and a hero for all Americans—Supreme Court Justice Thurgood Marshall. As the chief counsel for the NAACP, he presented the legal argument that resulted in the 1954 Supreme Court decision that desegregated America's schools. The first African-American to sit on the Supreme Court, Justice Marshall played a major role in landmark court decisions in four decades. Mr. Speaker, I urge my colleagues to support this resolution to honor this great American.

Mr. MANTON. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina [Mr. ROSE], the chairman of the full committee.

Mr. ROSE. Mr. Speaker, I thank the chairman of the subcommittee for yielding this time to me. I apologize for interrupting his fast-moving business here today.

Mr. Speaker, I would like to enter into a discussion with the distinguished ranking minority member of the full committee, the gentleman from California [Mr. THOMAS] for the purpose of providing information on our discussions about the status of the joint committees of the Congress.

Now, as I yield, understand that we have jurisdiction in the Committee on House Administration over the Joint Committee on Printing and the Joint Committee on the Library only.

Mr. Speaker, I yield to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding to me.

I fully understand that the Committee on House Administration has jurisdiction over the Liberty of Congress and the Joint Committee on Printing.

Mr. Speaker, as the chairman knows, on March 17, 1993, I asked that the Committee on House Administration examine the question of restructuring or eliminating those joint committees.

The form of government information continues to evolve. As the chairman knows since we worked so hard on this, the GPO access bill, which was passed by a bipartisan vote, will enhance public access to Federal information stored electronically. It is an example of the changing way in which information is being handled inside the Government. It is changing the context of

what printing is and the possibilities of disseminating that information electronically.

Because of that, I think we should evaluate the role of the Government Printing Office and the Superintendent of Documents, as well as the proper relationship between the Library of Congress, the Joint Committee on the Library, and the Joint Committee on Printing.

We obviously are not alone in examining this area. The Vice President has examined this area of our responsibility. We have the Joint Committee on the Reorganization of Congress which may be examining this area, and specifically through the minority leader, Republicans have insisted that the Joint Committee on Printing be completely rethought.

It seems to me, I say to the chairman, that in light of these factors, I understand the chairman is prepared to examine the restructuring and the possible elimination of the Joint Committee on Printing.

Mr. ROSE. Mr. Speaker, I thank the gentleman for his comments.

As we discussed, I am prepared, as the chairman of the committee, to present the results of our analysis of the Joint Committee on Printing to the House Administration Committee in early October, probably as early as the 5th of October. After Members have had an opportunity to review our findings, we will convene a meeting of the full committee to discuss our recommendations on the restructuring or the elimination or the change in the role of the Joint Committee on Printing, which certainly could include the elimination.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield further?

Mr. ROSE. Yes; I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for his comments. It points out that although there has been interest generated in this area by the Vice President's investigation of what may or may not come out of the Joint Committee on Printing, clearly the Committee on House Administration, given its jurisdictional responsibilities, was focused on this prior to the press attention. This is an area that needs examination and I look forward to an ongoing reevaluation of this area.

Mr. ROSE. That is a very good point, and I thank the gentleman for making it.

I would also say that I believe our understanding is that whatever discussions we have in the Committee on House Administration and whatever recommendations we come forth with about the change in the role or the restructuring or even the elimination of the Joint Committee on Printing, that we would have to seek an agreement with the Senate at some point to go along with that; but what we are going to do is to express how we feel in the House of Representatives about that and then leave it up to others to do as they please.

Mr. Speaker, I thank the gentleman for his comments, and I thank the subcommittee chairman for his indulgence.

Ms. DUNN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MANTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MANTON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 133, as amended.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution providing for the printing as a House document of a collection of statements made in tribute to the late Justice Thurgood Marshall.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MANTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Concurrent Resolution 133, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PRINTING OF SENATORS OF THE UNITED STATES: A HISTORICAL BIOGRAPHY

Mr. MANTON. Mr. Speaker, I move that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 4) to authorize printing of "Senators of the United States: A Historical Bibliography," as prepared by the Office of the Secretary of the Senate, as amended

The clerk read as follows:

S. CON. RES. 4

Whereas informed research on the history and operations of the United States Congress depends on full access to existing scholarly studies of its former members, as well as to their published papers and other writings; and

Whereas no recent compilation of these significant research resources presently exists: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "Senators of the United States: A Historical Bibliography" prepared by the Senate Historical Office under the supervision of the Secretary of the Senate.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number, there shall be printed for the use of the Office of the Secretary of the Senate the lesser of—

(1) 5,000 copies of the document; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $85,180.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MANTON] will be recognized for 20 minutes, and the gentlewoman from Washington [Ms. DUNN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 4, as amended, would authorize the printing of "Senators of the United States: A Historical Bibliography," as prepared by the Office of the Secretary of the Senate.

It is designed to promote an understanding of Congress and its former Members for an audience that includes secondary school students, academic researchers, and the general public.

The resolution was amended in committee to make certain that GPO cost estimates are not exceeded.

Mr. Speaker, I reserve the balance of my time.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 4, provides for the printing of "Senators of the United States: A Historical Bibliography." In the Subcommittee on Personnel and Police, I introduced an amendment that would place cost caps on these resolutions. Previously, resolutions were passed that authorized the printing of a specific number of copies without placing a total expenditure limit. Thus, the maximum number of copies was often printed, regardless of the total price of production. My amendment simply states that we will authorize the printing of 5,000 copies or such number as does not exceed a total production and printing cost of $85,180.

Similar cost capping amendments have been added to Senate Concurrent Resolution 5 and Senate Concurrent Resolution 6. I wish to thank my chairman, Mr. MANTON, for his work in keeping the costs of these resolutions under control.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I just wanted to make the comment that last May, the ranking Republican on the House Administration Committee, Mr. THOMAS, wrote to me informing me that the committee would review the status of the joint committees. I encouraged that review and stated that based on my own evaluation, the committees should be abolished.

In fact, Republicans proposed just that in our reform package presented at the beginning of the 103d Congress, and last week, when these printing resolutions were initially scheduled, I asked the committee whatever happened to the review of the joint committees. What action had been taken?

It is my understanding that the Committee on House Administration has yet to take any action on these joint committees—no hearings, none scheduled, no actions to date. "No action," that is the refrain that is so often heard around here when it comes to reform. "No action" just will not cut it anymore with me, or, I do not think, with the American people.

While I am encouraged by what I have heard the chairman state on the floor today I still believe the Joint Committee on Printing should be abolished forthwith.

I insert into the RECORD correspondence between myself and the ranking Republican, the gentleman from California [Mr. THOMAS].

U.S. HOUSE OF REPRESENTATIVES,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, September 17, 1993.

Hon. WILLIAM M. THOMAS,
Ranking Republican, Committee on House Administration, H–330, The Capitol, Washington, DC.

DEAR BILL: I noticed that there are four printing resolutions on the Suspension Calendar for Tuesday, September 21.

Several months ago you informed me that the Committee was going to review the joint committees on printing and libraries. I responded in a May 25 letter to you that I supported the review and recommended that the two joint committees be abolished.

It is my understanding that the Committee has yet to have a hearing on this issue or taken any action whatsoever.

In light of this, I feel compelled to oppose H. Con. Res. 133, S. Con. Res. 4, S. Con. Res. 5, and S. Con. Res. 6 when they are considered on the House Floor. I wanted you to be aware of my opposition and I will convey the same to the Republican Whip, and all House Republicans.

Sincerely,

BOB MICHEL,
Republican Leader.

HOUSE OF REPRESENTATIVES,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, May 25, 1993.

Hon. WILLIAM M. THOMAS,
Ranking Republican, Committee on House Administration, H–330, The Capitol, Washington, DC.

DEAR BILL: Several weeks ago you informed me that the Committee on House Administration would review the status of the joint committees under its control—the Joint Committee on Printing and the Joint Committee on the Library.

I welcome this review and the opportunity to express my personal views on the issue. After looking over the operations of these two joint committees, including their jurisdiction, staffing, and costs, I am convinced that these committees should be terminated.

The House Administration Committee can retain jurisdiction over these issues, without a formal joint committee. Furthermore, the work of the committees is sporadic and just cannot justify the expenditures.

Your efforts in reviewing the joint committees is to be commended. As we look to make the House more productive and cost efficient, the joint committees are the first place to look.

Sincerely,

BOB MICHEL,
Republican Leader.

Ms. DUNN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MANTON. Mr. Speaker, I, too, have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RICHARDSON). The question is on the motion offered by the gentleman from New York [Mr. MANTON] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 4) as amended.

The question was taken.

Ms. DUNN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. MANTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 4, as amended, the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PRINTING OF "GUIDE TO RESEARCH COLLECTIONS OF FORMER UNITED STATES SENATORS"

Mr. MANTON. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 5) to authorize printing of "Guide to Research Collections of Former United States Senators," as amended.

The Clerk read as follows:

S. CON. RES. 5

Where informed research on the United States Congress depends heavily on access to the office files, personal papers, oral history interview transcripts, and associated memorabilia of its former members;

Whereas the Senate in 1983 and the House of Representatives in 1988 have published well-received guides to these materials; and

Whereas thousands of new entries have been added to the Senate's 1983 edition and supplies of this award-winning reference guide have been exhausted: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "Guide to Research Collections of Former United States Senators" prepared by the Senate Historical Office under the supervision of the Secretary of the Senate.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number, there shall be printed for the use of the Office of the Secretary of the Senate the lesser of—

(1) 5,000 copies of the document; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $83,425.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MANTON] will be recognized for 20 minutes, and the gentlewoman from Washington [Ms. DUNN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 5, as amended, would authorize the printing of the book entitled, "Guide to Research Collections of Former United States Senators."

This guide provides information on the location and scope of research collections for approximately 1,500 former U.S. Senators. These collections include office files, personal papers, and oral transcripts.

This volume will be used in school, college, and research libraries. This printing will expand the first edition, published in 1983.

The resolution was amended to make certain that GPO cost estimates are not exceeded.

Mr. Speaker, I reserve the balance of my time.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 5, provides for the printing of "Guide to Research Collections of Former United States Senators." Mr. Speaker, my colleague from New York has outlined the purpose and proposed contents of this book. Again, I want to point out to my colleagues that this resolution has a printing and production cost cap that will limit the total expenditure.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MANTON. Mr. Speaker, I, too, have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from New York [Mr. MANTON] that the House suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 5), as amended.

The question was taken.

Ms. DUNN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. MANTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 5, as amended, the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

PRINTING OF "SENATE ELECTION, EXPULSION, AND CENSURE CASES"

Mr. MANTON. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 6) to authorize printing of "Senate Election, Expulsion, and Censure Cases," as prepared by the Office of the Secretary of the Senate, as amended.

The Clerk read as follows:

S. CON. RES. 6

Whereas the United States Constitution, in Article I, section 5, provides that "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members" and that "Each House may * * * punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member";

Whereas the Senate has sought faithfully to exercise these constitutional requirements of self-discipline through its more than two-hundred-year history;

Whereas the Senate, beginning in 1885, has periodically published compilations of its election, expulsion, and censure cases for the guidance of members and the American people; and

Whereas the most recent edition is now twenty years out of date: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "Senate Election, Expulsion, and Censure Cases" prepared by the Senate Historical Office under the supervision of the Secretary of the Senate.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number, there shall be printed for the use of Senate, to be allocated as determined by the Secretary of the Senate, the lesser of—

(1) 3,000 copies of the document; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $28,657.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MANTON] will be recognized for 20 minutes, and the gentlewoman from Washington [Ms. DUNN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Congressional Resolution 6, as amended, would authorize the printing of "Senate Election, Expulsion and Censure Cases," as prepared by the Office of the Secretary of the Senate.

This book was first published in 1885, and subsequent editions followed in 1893, 1903, and the latest edition was published in 1972.

The new edition will include extensive descriptions of the 164 cases contained in the 1972 print, as well as descriptions of cases that have occurred since 1972. Copies will be distributed to research libraries throughout the Nation. The resolution was amended in committee to make certain that GPO cost estimates are not exceeded.

Mr. Speaker I reserve the balance of my time.

Ms. DUNN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 6, provides for the printing of "Senate Election, Expulsion, and Censure Cases." Again, this resolution has my cost control amendment that assures that GPO estimates for printing and production are not exceeded.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MANTON. Mr. Speaker, I, too, have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. MANTON] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 6, as amended.

The queston was taken.

Ms. DUNN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. MANTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Concurrent Resolution 6, as amended, the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CATAWBA INDIAN TRIBE OF SOUTH CAROLINA LAND CLAIMS SETTLEMENT ACT OF 1993

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2399) to provide for the settlement of land claims of the Catawba Tribe of Indians in the State of South Carolina and the restoration of the Federal trust relationship with the tribe, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993".

SEC. 2. DECLARATION OF POLICY, CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress declares and finds that:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlements mutually agreed to by Indian and non-Indian parties.

(2) There is pending before the United States District Court for the District of South Carolina a lawsuit disputing ownership of approximately 140,000 acres of land in the State of South Carolina and other rights of the Catawba Indian Tribe under Federal law.

(3) The Catawba Indian Tribe initiated a related lawsuit against the United States in the United States Court of Federal Claims seeking monetary damages.

(4) Some of the significant historical events which have led to the present situation include:

(A) In treaties with the Crown in 1760 and 1763, the Tribe ceded vast portions of its aboriginal territory in the present States of North and South Carolina in return for guarantees of being quietly settled on a 144,000-acre reservation.

(B) The Tribe's district court suit contended that in 1840 the Tribe and the State entered into an agreement without Federal approval or participation whereby the Tribe ceded its treaty reservation to the State, thereby giving rise to the Tribe's claim that it was dispossessed of its lands in violation of Federal law.

(C) In 1943, the United States entered into an agreement with the Tribe and the State to provide services to the Tribe and its members. The State purchased 3,434 acres of land and conveyed it to the Secretary in trust for the Tribe and the Tribe organized under the Indian Reorganization Act.

(D) In 1959, when Congress enacted the Catawba Tribe of South Carolina Division of Assets Act (25 U.S.C. 931–938), Federal agents

assured the Tribe that if the Tribe would release the Government from its obligation under the 1943 agreement and agree to Federal legislation terminating the Federal trust relationship and liquidating the 1943 reservation, the status of the Tribe's land claim would not be jeopardized by termination.

(E) In 1980, the Tribe initiated Federal court litigation to regain possession of its treaty lands and in 1986, the United States Supreme Court ruled in South Carolina against Catawba Indian Tribe that the 1959 Act resulted in the application of State statutes of limitations to the Tribe's land claim. Two subsequent decisions of the United States Court of Appeals for the Fourth Circuit have held that some portion of the Tribe's claim is barred by State statutes of limitations and that some portion is not barred.

(5) The pendency of these lawsuits has led to substantial economic and social hardship for a large number of landowners, citizens and communities in the State of South Carolina, including the Catawba Indian Tribe. Congress recognizes that if these claims are not resolved, further litigation against tens of thousands of landowners would be likely; that any final resolution of pending disputes through a process of litigation would take many years and entail great expenses to all parties; continue economically and socially damaging controversies; prolong uncertainty as to the ownership of property; and seriously impair long-term economic planning and development for all parties.

(6) The 102d Congress has enacted legislation suspending until October 1, 1993, the running of any unexpired statute of limitation applicable to the Tribe's land claim in order to provide additional time to negotiate settlement of these claims.

(7) It is recognized that both Indian and non-Indian parties enter into this settlement to resolve the disputes raised in these lawsuits and to derive certain benefits. The parties' Settlement Agreement constitutes a good faith effort to resolve these lawsuits and other claims and requires implementing legislation by the Congress of the United States, the General Assembly of the State of South Carolina, and the governing bodies of the South Carolina counties of York and Lancaster.

(8) To advance the goals of the Federal policy of Indian self-determination and restoration of terminated Indian Tribes, and in recognition of the United States obligation to the Tribe and the Federal policy of settling historical Indian claims through comprehensive settlement agreements, it is appropriate that the United States participate in the funding and implementation of the Settlement Agreement.

(b) PURPOSE.—It is the purpose of this Act—

(1) to approve, ratify, and confirm the Settlement Agreement entered into by the non-Indian settlement parties and the Tribe, except as otherwise provided by this Act;

(2) to authorize and direct the Secretary to implement the terms of such Settlement Agreement;

(3) to authorize the actions and appropriations necessary to implement the provisions of the Settlement Agreement and this Act;

(4) to remove the cloud on titles in the State of South Carolina resulting from the Tribe's land claim; and

(5) to restore the trust relationship between the Tribe and the United States.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Tribe" means the Catawba Indian Tribe of South Carolina as constituted in aboriginal times, which was party to the Treaty of Pine Tree Hill in 1760 as confirmed by the Treaty of Augusta in 1763, which was party also to the Treaty of Nation Ford in 1840, and which was the subject of the Termination Act, and all predecessors and successors in interest, including the Catawba Indian Tribe of South Carolina, Inc.

(2) The term "claim" or "claims" means any claim which was asserted by the Tribe in either Suit, and any other claim which could have been asserted by the Tribe or any Catawba Indian of a right, title or interest in property, to trespass or property damages, or of hunting, fishing or other rights to natural resources, if such claim is based upon aboriginal title, recognized title, or title by grant, patent, or treaty including the Treaty of Pine Tree Hill of 1760, the Treaty of Augusta of 1763, or the Treaty of Nation Ford of 1840.

(3) The term "Executive Committee" means the body of the Tribe composed of the Tribe's executive officers as selected by the Tribe in accordance with its constitution.

(4) The term "Existing Reservation" means that tract of approximately 630 acres conveyed to the State in trust for the Tribe by J.M. Doby on December 24, 1842, by deed recorded in York County Deed Book N, pp. 340–341.

(5) The term "General Council" means the membership of the Tribe convened as the Tribe's governing body for the purpose of conducting tribal business pursuant to the Tribe's constitution.

(6) The term "Member" means individuals who are currently members of the Tribe or who are enrolled in accordance with this Act.

(7) The term "Reservation" or "Expanded Reservation" means the Existing Reservation and the lands added to the Existing Reservation in accordance with section 12 of this Act, which are to be held in trust by the Secretary in accordance with this Act.

(8) The term "Secretary" means the Secretary of the Interior.

(9) The term "service area" means the area composed of the State of South Carolina and Cabarrus, Cleveland, Gaston, Mecklenburg, Rutherford, and Union counties in the State of North Carolina.

(10) The term "Settlement Agreement" means the document entitled "Agreement in Principle " between the Tribe and the State of South Carolina and attached to the copy of the State Act and filed with the Secretary of State of the State of South Carolina, as amended to conform to this Act and printed in the Congressional Record.

(11) The term "State" means, except for section 6 (a) through (f), the State of South Carolina.

(12) The term "State Act" means the Act enacted into law by the State of South Carolina on June 14, 1993, and codified as S.C. Code Ann., sections 27–16–10 through 27–16–140, to implement the Settlement Agreement.

(13) The term "Suit" or "Suits" means Catawba Indian Tribe of South Carolina v. State of South Carolina, et al., docketed as Civil Action No. 80–2050 and filed in the United States District Court for the District of South Carolina; and Catawba Indian Tribe of South Carolina v. The United States of America, docketed as Civil Action No. 90–553L and filed in the United States Court of Federal Claims.

(14) The term "Termination Act" means the Act entitled "An Act to provide for the division of the tribal assets of the Catawba Indian Tribe of South Carolina among the members of the Tribe and for other purposes", approved September 21, 1959 (73 Stat. 592; 25 U.S.C. 931–938).

(15) The term "transfer" includes (but is not limited to) any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event or circumstance that resulted in a change in title to, possession of, dominion over, or control of land, water, minerals, timber, or other natural resources.

(16) The term "Trust Funds" means the trust funds established by section 11 of this Act.

SEC. 4. RESTORATION OF FEDERAL TRUST RELATIONSHIP.

(a) RESTORATION OF THE FEDERAL TRUST RELATIONSHIP AND APPROVAL, RATIFICATION, AND CONFIRMATION OF THE SETTLEMENT AGREEMENT.—On the effective date of this Act—

(1) the trust relationship between the Tribe and the United States is restored; and

(2) the Settlement Agreement and the State Act are approved, ratified, and confirmed by the United States to effectuate the purposes of this Act, and shall be complied with in the same manner and to the same extent as if they had been enacted into Federal law.

(b) ELIGIBILITY FOR FEDERAL BENEFITS AND SERVICES.—Notwithstanding any other provision of law, on the effective date of this Act, the Tribe and the Members shall be eligible for all benefits and services furnished to federally recognized Indian tribes and their members because of their status as Indians. On the effective date of this Act, the Secretary shall enter the Tribe on the list of federally recognized bands and tribes maintained by the Department of the Interior; and its members shall be entitled to special services, educational benefits, medical care, and welfare assistance provided by the United States to Indians because of their status as Indians, and the Tribe shall be entitled to the special services performed by the United States for tribes because of their status as Indian tribes. For the purpose of eligibility for Federal services made available to members of federally recognized Indian tribes because of their status as Indian tribal members, Members of the Tribe in the Tribe's service area shall be deemed to be residing on or near a reservation.

(c) REPEAL OF TERMINATION ACT.—The Termination Act is repealed.

(d) EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.—Except as otherwise specifically provided in this Act, this Act shall not affect any property right or obligation or any contractual right or obligation in existence before the effective date of this Act, or any obligation for taxes levied before that date.

(e) EXTENT OF JURISDICTION.—This Act shall not be construed to empower the Tribe with special jurisdiction or to deprive the State of jurisdiction other than as expressly provided by this Act or by the State Act. The jurisdiction and governmental powers of the Tribe shall be solely those set forth in this Act and the State Act.

SEC. 5. SETTLEMENT FUNDS.

(a) AUTHORIZATION FOR APPROPRIATION.—There is hereby authorized to be appropriated $32,000,000 for the Federal share which shall be deposited in the trust funds established pursuant to section 11 of this Act or paid pursuant to section 6(g).

(b) DISBURSEMENT IN ACCORDANCE WITH SETTLEMENT AGREEMENT.—The Federal funds appropriated pursuant to this Act shall be disbursed in four equal annual installments of $8,000,000 beginning in the fiscal year following enactment of this Act. Funds transferred to the Secretary from other sources shall be deposited in the trust funds established pursuant to section 11 of this Act or paid pursuant to section 6(g) within 30 days of receipt by the Secretary.

(c) FEDERAL, STATE, LOCAL AND PRIVATE CONTRIBUTIONS HELD IN TRUST BY SECRETARY.—The Secretary shall, on behalf of the Tribe, collect those contributions toward settlement appropriated or received by the State pursuant to section 5.2 of the Settlement Agreement and shall either hold such funds totalling $18,000,000, together with the Federal funds appropriated pursuant to this Act, in trust for the Tribe pursuant to the provisions of section 11 of this Act or pay such funds pursuant to section 6(g) of this Act.

(d) NONPAYMENT OF STATE, LOCAL, OR PRIVATE CONTRIBUTIONS.—The Secretary shall not be accountable or incur any liability for the collection, deposit, or management of the non-Federal contributions made pursuant to section 5.2 of the Settlement Agreement, or payment of such funds pursuant to section 6(g) of this Act, until such time as such funds are received by the Secretary.

SEC. 6. RATIFICATION OF PRIOR TRANSFERS; EXTINGUISHMENT OF ABORIGINAL TITLE, RIGHTS AND CLAIMS.

(a) RATIFICATION OF TRANSFERS.—Any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Tribe, any one or more of its Members, or anyone purporting to be a Member, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, and Congress hereby approves and ratifies any such transfer effective as of the date of such transfer. Nothing in this section shall be construed to affect, eliminate, or revive the personal claim of any individual Member (except for any Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians.

(b) ABORIGINAL TITLE.—To the extent that any transfer of land or natural resources described in subsection (a) of this section may involve land or natural resources to which the Tribe, any of its Members, or anyone purporting to be a Member, or any other Indian, Indian nation, or Tribe or band of Indians had aboriginal title, subsection (a) of this section shall be regarded as an extinguishment of aboriginal title as of the date of such transfer.

(c) EXTINGUISHMENT OF CLAIMS.—By virtue of the approval and ratification of any transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Tribe, any of its Members, or anyone purporting to be a Member, or any predecessors or successors in interest thereof or any other Indian, Indian Nation, or tribe or band of Indians, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or natural resources, including without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the transfer.

(d) EXTINGUISHMENT OF TITLE.—(1) All claims and all right, title, and interest that the Tribe, its Members, or any person or group of persons purporting to be Catawba Indians may have to aboriginal title, recognized title, or title by grant, patent, or treaty to the lands located anywhere in the United States are hereby extinguished.

(2) This extinguishment of claims shall also extinguish title to any hunting, fishing, or water rights or rights to any other natural resource claimed by the Tribe or a Member based on aboriginal or treaty recognized title, and all trespass damages and other damages associated with use, occupancy or possession, or entry upon such lands.

(e) BAR TO FUTURE CLAIMS.—The United States is hereby barred from asserting by or on behalf of the Tribe or any of its Members, or anyone purporting to be a Member, any claim arising before the effective date of this Act from the transfer of any land or natural resources by deed or other grant, or by treaty, compact, or act of law, on the grounds that such transfer was not made in accordance with the laws of South Carolina or the Constitution or laws of the United States.

(f) NO DEROGATION OF FEE SIMPLE IN EXISTING RESERVATION, OR EFFECT ON MEMBERS' FEE INTERESTS.—Nothing in this Act shall be construed to diminish or derogate from the Tribe's estate in the Existing Reservation; or to divest or disturb title in any land conveyed to any person or entity as a result of the Termination Act and the liquidation and partition of tribal lands; or to divest or disturb the right, title and interest of any Member in any fee simple, leasehold or remainder estate or any equitable or beneficial right or interest any such Member may own individually and not as a Member of the Tribe.

(g) COSTS AND ATTORNEYS' FEES.—The parties to the Suits shall bear their own costs and attorneys' fees. As provided by section 6.4 of the Settlement Agreement, the Secretary shall pay to the Tribe's attorneys in the Suits attorneys' fees and expenses from, and not to exceed 10 percent of, the $50,000,000 obligated for payment to the Tribe by Federal, State, local, and private parties pursuant to section 5 of the Settlement Agreement.

(h) PERSONAL CLAIMS NOT AFFECTED.—Nothing in this section shall be deemed to affect, diminish, or eliminate the personal claim of any individual Indian which is pursued under any law of general applicability (other than Federal common law fraud) that protects non-Indians as well as Indians.

(i) FEDERAL PAYMENT.—In the event any of the Federal payments are not paid as set forth in section 5, such failure to pay shall give rise to a cause of action by the Tribe against the United States for money damages for the amount authorized to be paid to the Tribe in section 5(a) in settlement of the Tribe's claim, and the Tribe is authorized to bring an action in the United States Court of Claims for such funds plus applicable interest. The United States hereby waives any affirmative defense to such action.

(j) STATE PAYMENT.—In the event any of the State payments are not paid as set forth in section 5 of this Act, such failure to pay shall give rise to a cause of action in the United States District Court for the District of South Carolina by the Tribe against the State of South Carolina for money damages for the amount authorized to be paid to the Tribe by the State in §27–16–50 (A) of the State Act in settlement of the Tribe's claim. Pursuant to §27–16–50 (E) of the State Act, the State of South Carolina waives any Eleventh Amendment immunity to such action.

SEC. 7. BASE MEMBERSHIP ROLL.

(a) BASE MEMBERSHIP ROLL CRITERIA.—Within one year after enactment of this section, the Tribe shall submit to the Secretary, for approval, its base membership roll. An individual is eligible for inclusion on the base membership roll if that individual is living on the date of enactment of this Act and—

(1) is listed on the membership roll published by the Secretary in the Federal Register on February 25, 1961 (26 FR 1680–1688, "Notice of Final Membership Roll"), and is not excluded under the provisions of subsection (c);

(2) the Executive Committee determines, based on the criteria used to compile the roll referred to in paragraph (1), that the individual should have been included on the membership roll at that time, but was not; or

(3) is a lineal descendant of a Member whose name appeared or should have appeared on the membership roll referred to in paragraph (1).

(b) BASE MEMBERSHIP ROLL NOTICE.—Within 90 days after the enactment of this Act, the Secretary shall publish in the Federal Register, and in three newspapers of general circulation in the Tribe's service area, a notice stating—

(1) that a base membership roll is being prepared by the Tribe and that the current membership roll is open and will remain open for a period of 90 days;

(2) the requirements for inclusion on the base membership roll;

(3) the final membership roll published by the Secretary in the Federal Register on February 25, 1961;

(4) the current membership roll as prepared by the Executive Committee and approved by the General Council; and

(5) the name and address of the tribal or Federal official to whom inquiries should be made.

(c) COMPLETION OF BASE MEMBERSHIP ROLL.—Within 120 days after publication of notice under subsection (b), the Secretary, after consultation with the Tribe, shall prepare and publish in the Federal Register, and in three newspapers of general circulation in the Tribe's service area, a proposed final base membership roll of the Tribe. Within 60 days from the date of publication of the proposed final base membership roll, an appeal may be filed with the Executive Committee under rules made by the Executive Committee in consultation with the Secretary. Such an appeal may be filed by a Member with respect to the inclusion of any name on the proposed final base membership roll and by any person with respect to the exclusion of his or her name from the final base membership roll. The Executive Committee shall review such appeals and render a decision, subject to the Secretary's approval. If the Executive Committee and the Secretary disagree, the Secretary's decision will be final. All such appeals shall be resolved within 90 days following publication of the proposed roll. The final base membership roll of the Tribe shall then be published in the Federal Register, and in three newspapers of general circulation in the Tribe's service area, and shall be final for purposes of the distribution of funds from the Per Capita Trust Fund established under section 11(h).

(d) FUTURE MEMBERSHIP IN THE TRIBE.—The Tribe shall have the right to determine future membership in the Tribe; however, in no event may an individual be enrolled as a tribal member unless the individual is a lineal descendant of a person on the final base membership roll and has continued to maintain political relations with the Tribe.

SEC. 8. TRANSITIONAL AND PROVISIONAL GOVERNMENT.

(a) FUTURE TRIBAL GOVERNMENT.—The Tribe shall adopt a new constitution within 24 months after the effective date of this Act.

(b) EXECUTIVE COMMITTEE AS TRANSITIONAL BODY.—(1) Until the Tribe has adopted a constitution, the existing tribal constitution shall remain in effect and the Executive Committee is recognized as the provisional and transitional governing body of the Tribe. Until an election of tribal officers under the new constitution, the Executive Committee shall—

(A) represent the Tribe and its Members in the implementation of this Act; and

(B) during such period—

(i) have full authority to enter into contracts, grant agreements and other arrangements with any Federal department or agency; and

(ii) have full authority to administer or operate any program under such contracts or agreements.

(2) Until the initial election of tribal officers under a new constitution and by-laws, the Executive Committee shall—

(A) determine tribal membership in accordance with the provisions of section 7; and

(B) oversee and implement the revision and proposal to the Tribe of a new constitution and conduct such tribal meetings and elections as are required by this Act.

SEC. 9. TRIBAL CONSTITUTION AND GOVERNANCE.

(a) INDIAN REORGANIZATION ACT.—If the Tribe so elects, it may organize under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"). The Tribe shall be subject to such Act except to the extent such sections are inconsistent with this Act.

(b) ADOPTION OF NEW TRIBAL CONSTITUTION.—Within 180 days after the effective date of this Act, the Executive Committee shall draft and distribute to each Member eligible to vote under the tribal constitution in effect on the effective date of this Act, a proposed constitution and bylaws for the Tribe together with a brief, impartial description of the proposed constitution and bylaws and a notice of the date, time and location of the election under this subsection. Not sooner than 30 days or later than 90 days after the distribution of the proposed constitution, the Executive Committee shall conduct a secret-ballot election to adopt a new constitution and bylaws.

(c) MAJORITY VOTE FOR ADOPTION; PROCEDURE IN EVENT OF FAILURE TO ADOPT PROPOSED CONSTITUTION.—(1) The tribal constitution and bylaws shall be ratified and adopted if—

(A) not less than 30 percent of those entitled to vote do vote; and

(B) approved by a majority of those actually voting.

(2) If in any such election such majority does not approve the adoption of the proposed constitution and bylaws, the Executive Committee shall prepare another proposed constitution and bylaws and present it to the Tribe in the same manner provided in this section for the first constitution and bylaws. Such new proposed constitution and bylaws shall be distributed to the eligible voters of the Tribe no later than 180 days after the date of the election in which the first proposed constitution and bylaws failed of adoption. An election on the question of the adoption of the new proposal of the Executive Committee shall be conducted in the same manner provided in subsection (b) for the election on the first proposed constitution and bylaws.

(d) ELECTION OF TRIBAL OFFICERS.—Within 120 days after the Tribe ratifies and adopts a constitution and bylaws, the Executive Committee shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution and bylaws. Subsequent elections shall be held in accordance with the Tribe's constitution and bylaws.

(e) EXTENSION OF TIME.—Any time periods prescribed in subsections (b) and (c) may be altered by written agreement between the Executive Committee and the Secretary.

SEC. 10. ADMINISTRATIVE PROVISIONS RELATING TO JURISDICTION, TAXATION, AND OTHER MATTERS.

In the administration of this Act:

(1) All matters involving tribal powers, immunities, and jurisdiction, whether criminal, civil, or regulatory, shall be governed by the terms and provisions of the Settlement Agreement and the State Act, unless otherwise provided in this Act.

(2) All matters pertaining to governance and regulation of the reservation (including environmental regulation and riparian rights) shall be governed by the terms and provisions of the Settlement Agreement and the State Act, including, but not limited to, section 17 of the Settlement Agreement and section 27-16-120 of the State Act, unless otherwise provided in this Act.

(3) The Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.) shall apply to Catawba Indian children except as provided in the Settlement Agreement.

(4) Whether or not the Tribe, under section 9(a), elects to organize under the Act of June 18, 1934, the Tribe, in any constitution adopted by the Tribe, may be authorized to exercise such authority as is consistent with the Settlement Agreement and the State Act.

(5) In no event may the Tribe pledge or hypothecate the income or principal of the Catawba Education or Social Services and Elderly Trust Funds or otherwise use them as security or a source of payment for bonds the Tribe may issue.

(6) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall apply to the Tribe except to the extent that such application may be inconsistent with this Act or the Settlement Agreement.

SEC. 11. TRIBAL TRUST FUNDS.

(a) PURPOSES OF TRUST FUNDS.—All funds paid pursuant to section 5 of this Act, except for payments made pursuant to section 6(g), shall be deposited with the Secretary in trust for the benefit of the Tribe. Separate trust funds shall be established for the following purposes: economic development, land acquisition, education, social services and elderly assistance, and per capita payments. Except as provided in this section, the Tribe, in consultation with the Secretary, shall determine the share of settlement payments to be deposited in each Trust Fund, and define, consistently with the provisions of this section, the purposes of each Trust Fund and provisions for administering each, specifically including provisions for periodic distribution of current and accumulated income, and for invasion and restoration of principal.

(b) OUTSIDE MANAGEMENT OPTION.—(1) The Tribe, in consultation with and subject to the approval of the Secretary, as set forth in this section, is authorized to place any of the Trust Funds under professional management, outside the Department of the Interior.

(2) If the Tribe elects to place any of the Trust Funds under professional management outside the Department of the Interior, it may engage a consulting or advisory firm to assist in the selection of an independent professional investment management firm, and it shall engage, with the approval of the Secretary, an independent investment management firm of proven competence and experience established in the business of counseling large endowments, trusts, or pension funds.

(3) The Secretary shall have 45 days to approve or reject any independent investment management firm selected by the Tribe. If the Secretary fails to approve or reject the firm selected by the Tribe within 45 days, the investment management firm selected by the Tribe shall be deemed to have been approved by the Secretary.

(4) Secretarial approval of an investment management firm shall not be unreasonably withheld, and any Secretarial disapproval of an investment management firm shall be accompanied by a detailed explanation setting forth the Secretary's reasons for such disapproval.

(5)(A) For funds placed under professional management, the Tribe, in consultation with the Secretary and its investment manager, shall develop—

(i) current operating and long-term capital budgets; and

(ii) a plan for managing, investing, and distributing income and principal from the Trust Funds to match the requirements of the Tribe's operating and capital budgets.

(B) For each Trust Fund which the Tribe elects to place under outside professional management, the investment plan shall provide for investment of Trust Fund assets so as to serve the purposes described in this section and in the Trust Fund provisions which the Tribe shall establish in consultation with the Secretary and the independent investment management firm.

(C) Distributions from each Trust Fund shall not exceed the limits on the use of principal and income imposed by the applicable provisions of this Act for that particular Trust Fund.

(D)(i) The Tribe's investment management plan shall not become effective until approved by the Secretary.

(ii) Upon submission of the plan by the Tribe to the Secretary for approval, the Secretary shall have 45 days to approve or reject the plan. If the Secretary fails to approve or disapprove the plan within 45 days, the plan shall be deemed to have been approved by the Secretary and shall become effective immediately.

(iii) Secretarial approval of the plan shall not be unreasonably withheld and any secretarial rejection of the plan shall be accompanied by a detailed explanation setting forth the Secretary's reasons for rejecting the plan.

(E) Until the selection of an established investment management firm of proven competence and experience, the Tribe shall rely on the management, investment, and administration of the Trust Funds by the Secretary pursuant to the provisions of this section.

(c) TRANSFER OF TRUST FUNDS; EXCULPATION OF SECRETARY.—Upon the Secretary's approval of the Tribe's investment management firm and an investment management plan, all funds previously deposited in trust funds held by the Secretary and all funds subsequently paid into the trust funds, which are chosen for outside management, shall be transferred to the accounts established by an investment management firm in

accordance with the approved investment management plan. The Secretary shall be exculpated by the Tribe from liability for any loss of principal or interest resulting from investment decisions made by the investment management firm. Any Trust Fund transferred to an investment management firm shall be returned to the Secretary upon written request of the Tribe, and the Secretary shall manage such funds for the benefit of the Tribe.

(d) LAND ACQUISITION TRUST.—(1) The Secretary shall establish and maintain a Catawba Land Acquisition Trust Fund, and until the Tribe engages an outside firm for investment management of this trust fund, the Secretary shall manage, invest, and administer this trust fund. The original principal amount of the Land Acquisition Trust Fund shall be determined by the Tribe in consultation with the Secretary.

(2) The principal and income of the Land Acquisition Trust Fund may be used for the purchase and development of Reservation and non-Reservation land pursuant to the Settlement Agreement, costs related to land acquisition, and costs of construction of infrastructure and development of the Reservation and non-Reservation land.

(3)(A) Upon acquisition of the maximum amount of land allowed for expansion of the Reservation, or upon request of the Tribe and approval of the Secretary pursuant to the Secretarial approval provisions set forth in subsection (b)(5)(D) of this section, all or part of the balance of this trust fund may be merged into one or more of the Economic Development Trust Fund, the Education Trust Fund, or the Social Services and Elderly Assistance Trust Fund.

(B) Alternatively, at the Tribe's election, the Land Acquisition Trust Fund may remain in existence after all the Reservation land is purchased in order to pay for the purchase of non-Reservation land.

(4)(A) The Tribe may pledge or hypothecate the income and principal of the Land Acquisition Trust Fund to secure loans for the purchase of Reservation and non-Reservation lands.

(B) Following the effective date of this Act and before the final annual disbursement is made as provided in section 5 of this Act, the Tribe may pledge or hypothecate up to 50 percent of the unpaid annual installments required to be paid to this Trust Fund, the Economic Development Trust Fund and the Social Services and Elderly Assistance Trust Fund by section 5 of this Act and by section 5 of the Settlement Agreement, to secure loans to finance the acquisition of Reservation or non-Reservation land or infrastructure improvements on such lands.

(e) ECONOMIC DEVELOPMENT TRUST.—(1) The Secretary shall establish and maintain a Catawba Economic Development Trust Fund, and until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer this Trust Fund. The original principal amount of the Economic Development Trust Fund shall be determined by the Tribe in consultation with the Secretary. The principal and income of this Trust Fund may be used to support tribal economic development activities, including but not limited to infrastructure improvements and tribal business ventures and commercial investments benefiting the Tribe.

(2) The Tribe, in consultation with the Secretary, may pledge or hypothecate future income and up to 50 percent of the principal of this Trust Fund to secure loans for economic development. In defining the provisions for administration of this Trust Fund, and before pledging or hypothecating future income or principal, the Tribe and the Secretary shall agree on rules and standards for the invasion of principal and for repayment or restoration of principal, which shall encourage preservation of principal, and provide that, if feasible, a portion of all profits derived from activities funded by principal be applied to repayment of the Trust Fund.

(3) Following the effective date of this Act and before the final annual disbursement is made as provided in section 5 of this Act, the Tribe may pledge or hypothecate up to 50 percent of the unpaid annual installments required to be paid by section 5 of this Act and by section 5 of the Settlement Agreement to secure loans to finance economic development activities of the Tribe, including (but not limited to) infrastructure improvements on Reservation and non-Reservation lands.

(4) If the Tribe develops sound lending guidelines approved by the Secretary, a portion of the income from this Trust Fund may also be used to fund a revolving credit account for loans to support tribal businesses or business enterprises of tribal members.

(f) EDUCATION TRUST.—The Secretary shall establish and maintain a Catawba Education Trust Fund, and until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer this Trust Fund. The original principal amount of this Trust Fund shall be determined by the Tribe in consultation with the Secretary; subject to the requirement that upon completion of all payments into the Trust Funds, an amount equal to at least ⅛ of all State, local, and private contributions made pursuant to the Settlement Agreement shall have been paid into the Education Trust Fund. Income from this Trust Fund shall be distributed in a manner consistent with the terms of the Settlement Agreement. The principal of this Trust Fund shall not be invaded or transferred to any other Trust Fund, nor shall it be pledged or encumbered as security.

(g) SOCIAL SERVICES AND ELDERLY ASSISTANCE TRUST.—(1) The Secretary shall establish and maintain a Catawba Social Services and Elderly Assistance Trust Fund and, until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer the Social Services and Elderly Assistance Trust Fund. The original principal amount of this Trust Fund shall be determined by the Tribe in consultation with the Secretary.

(2) The income of this Trust Fund shall be periodically distributed to the Tribe to support social services programs, including (but not limited to) housing, care of elderly, or physically or mentally disabled Members, child care, supplemental health care, education, cultural preservation, burial and cemetery maintenance, and operation of tribal government.

(3) The Tribe, in consultation with the Secretary, shall establish eligibility criteria and procedures to carry out this subsection.

(h) PER CAPITA PAYMENT TRUST FUND.—(1) The Secretary shall establish and maintain a Catawba Per Capita Payment Trust Fund in an amount equal to 15 percent of the settlement funds paid pursuant to section 5 of the Settlement Agreement. Until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer the Catawba Per Capita Payment Trust Fund.

(2) Each person (or their estate) whose name appears on the final base membership roll of the Tribe published by the Secretary pursuant to section 7(c) of this Act will receive a one-time, non-recurring payment from this Trust Fund.

(3) The amount payable to each member shall be determined by dividing the trust principal and any accrued interest thereon by the number of Members on the final base membership roll.

(4)(A) Subject to the provisions of this paragraph, each enrolled member who has reached the age of 21 years on the date the final roll is published shall receive the payment on the date of distribution, which shall be as soon as practicable after date of publication of the final base membership roll. Adult Members shall be paid their pro rata share of this Trust Fund on the date of distribution unless they elect in writing to leave their pro rata share in the Trust Fund, in which case such share shall not be distributed.

(B) The pro rata share of adult Members who elect not to withdraw their payment from this Trust Fund shall be managed, invested and administered, together with the funds of Members who have not attained the age of 21 years on the date the final base membership roll is published, until such Member requests in writing that their pro rata share be distributed, at which time such Member's pro rata share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of distribution.

(C) No member may elect to have their pro rata share managed by this Trust Fund for a period of more than 21 years after the date of publication of the final base membership roll.

(5)(A) Subject to the provisions of this paragraph, the pro rata share of any Member who has not attained the age of 21 years on the date the final base membership roll is published shall be managed, invested and administered pursuant to the provisions of this section until such Member has attained the age of 21 years, at which time such Member's pro rata share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of payment. Such Members shall be paid their pro rata share of this Trust Fund on the date they attain 21 years of age unless they elect in writing to leave their pro rata share in the Trust Fund, in which case such share shall not be distributed.

(B) The pro rata share of such Members who elect not to withdraw their payment from this trust fund shall be managed, invested and administered, together with the funds of members who have not attained the age of 21 years on the date the final base membership roll is published, until such Member requests in writing that their pro rata share be distributed, at which time such Member's pro rata share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of distribution.

(C) No Member may elect to have their pro rata share retained and managed by this Trust Fund beyond the expiration of the period of 21 years after the date of publication of the final base membership roll.

(6) After payments have been made to all Members entitled to receive payments, this Trust Fund shall terminate, and any balance remaining in this Trust Fund shall be merged into the Economic Development Trust Fund, the Education Trust Fund, or the Social Services and Elderly Assistance Trust Fund, as the Tribe may determine.

(i) DURATION OF TRUST FUNDS.—Subject to the provisions of this section and with the

exception of the Catawba Per Capita Payment Trust Fund, the Trust Funds established in accordance with this section shall continue in existence so long as the Tribe exists and is recognized by the United States. The principal of these Trust Funds shall not be invaded or distributed except as expressly authorized in this Act or in the Settlement Agreement.

(j) TRANSFER OF MONEY AMONG TRUST FUNDS.—The Tribe, in consultation with the Secretary, shall have the authority to transfer principal and accumulated income between Trust Funds only as follows:

(1) Funds may be transferred among the Catawba Economic Development Trust Fund, the Catawba Land Acquisition Trust Fund and the Catawba Social Services and Elderly Assistance Trust Fund, and from any of those three Trust Funds into the Catawba Education Trust Fund; except, that the mandatory share of State, local, and private sector funds invested in the original corpus of the Catawba Education Trust Fund shall not be transferred to any other Trust Fund.

(2) Any Trust Fund, except for the Catawba Education Trust Fund, may be dissolved by a vote of two-thirds of those Members eligible to vote, and the assets in such Trust Fund shall be transferred to the remaining Trust Funds; except, that (A) no assets shall be transferred from any of the Trust Funds into the Catawba Per Capita Payment Trust Fund, and (B) the mandatory share of State, local and private funds invested in the original corpus of the Catawba Education Trust Fund may not be transferred or used for any non-educational purposes.

(3) The dissolution of any Trust Fund shall require the approval of the Secretary pursuant to the Secretarial approval provisions set forth in subsection (b)(5)(D) of this section.

(k) TRUST FUND ACCOUNTING.—(1) The Secretary shall account to the Tribe periodically, and at least annually, for all Catawba Trust Funds being managed and administered by the Secretary. The accounting shall—

(A) identify the assets in which the Trust Funds have been invested during the relevant period;

(B) report income earned during the period, distinguishing current income and capital gains;

(C) indicate dates and amounts of distributions to the Tribe, separately distinguishing current income, accumulated income, and distributions of principal; and

(D) identify any invasions or repayments of principal during the relevant period and record provisions the Tribe has made for repayment or restoration of principal.

(2)(A) Any outside investment management firm engaged by the Tribe shall account to the Tribe and separately to the Secretary at periodic intervals, at least quarterly. Its accounting shall—

(i) identify the assets in which the Trust Funds have been invested during the relevant period;

(ii) report income earned during the period, separating current income and capital gains;

(iii) indicate dates and amounts of distributions to the Tribe, distinguishing current income, accumulated income, and distributions of principal; and

(iv) identify any invasions or repayments of principal during the relevant period and record provisions the Tribe has made for repayment or restoration of principal.

(B) Prior to distributing principal from any Trust Fund, the investment management firm shall notify the Secretary of the proposed distribution and the Tribe's proposed use of such funds, following procedures to be agreed upon by the investment management firm, the Secretary, and the Tribe. The Secretary shall have 15 days within which to object in writing to any such invasion of principal. Failure to object will be deemed approval of the distribution.

(C) All Trust Funds held and managed by any investment management firm shall be audited annually by a certified public accounting firm approved by the Secretary, and a copy of the annual audit shall be submitted to the Tribe and to the Secretary within four months following the close of the Trust Funds's fiscal year.

(l) REPLACEMENT OF INVESTMENT MANAGEMENT FIRM AND MODIFICATION OF INVESTMENT MANAGEMENT PLAN.—The Tribe shall not replace the investment management firm approved by the Secretary without prior written notification to the Secretary and approval by the Secretary of any investment management firm chosen by the Tribe as a replacement. Such Secretarial approval shall be given or denied in accordance with the Secretarial approval provisions contained in subsection (b)(5)(D) of this section. The Tribe and its investment management firm shall also notify the Secretary in writing of any revisions in the investment management plan which materially increase investment risk or significantly change the investment management plan, or the agreement, made in consultation with the Secretary pursuant to which the outside management firm was retained.

(m) TRUST FUNDS NOT COUNTED FOR CERTAIN PURPOSES; USE AS MATCHING FUNDS.—None of the funds, assets, income, payments, or distributions from the trust funds established pursuant to this section shall at any time affect the eligibility of the Tribe or its Members for, or be used as a basis for denying or reducing funds to the Tribe or its Members under any Federal, State, or local program. Distributions from these Trust Funds may be used as matching funds, where appropriate, for Federal grants or loans.

SEC. 12. ESTABLISHMENT OF EXPANDED RESERVATION.

(a) EXISTING RESERVATION.—The Secretary is authorized to receive from the State, by such transfer document as the Secretary and the State shall approve, all rights, title, and interests of the State in and to the Existing Reservation to be held by the United States as trustee for the Tribe, and, effective on the date of such transfer, the obligation of the State as trustee for the Tribe with respect to such land shall cease.

(b) EXPANDED RESERVATION.—(1) The Existing Reservation shall be expanded in the manner prescribed by the Settlement Agreement.

(2) Within 180 days following the date of the enactment of this Act, the Secretary, after consulting with the Tribe, shall ascertain the boundaries and area of the existing reservation. In addition, the Secretary, after consulting with the Tribe, shall engage a professional land planning firm as provided in the Settlement Agreement. The Secretary shall bear the cost of all services rendered pursuant to this section.

(3) The Tribe may identify, purchase and request that the Secretary place into reservation status, tracts of lands in the manner prescribed by the Settlement Agreement. The Tribe may not request that any land be placed in reservation status, unless those lands were acquired by the Tribe and qualify for reservation status in full compliance with the Settlement Agreement, including section 14 thereof.

(4) The Secretary shall bear the cost of all title examinations, preliminary subsurface soil investigations, and level one environmental audits to be performed on each parcel contemplated for purchase by the Tribe or the Secretary for the Expanded Reservation, and shall report the results to the Tribe. The Secretary's or the Tribe's payment of any option fee and the purchase price may be drawn from the Catawba Land Acquisition Trust Fund.

(5) The total area of the Expanded Reservation shall be limited to 3,000 acres, including the Existing Reservation, but the Tribe may exclude from this limit up to 600 acres of additional land under the conditions set forth in the Settlement Agreement. The Tribe may seek to have the permissible area of the Expanded Reservation enlarged by an additional 600 acres as set forth in the Settlement Agreement.

(6) All lands acquired for the Expanded Reservation may be held in trust together with the Existing Reservation which the State is to convey to the United States.

(7) Nothing in this Act shall prohibit the Secretary from providing technical and financial assistance to the Tribe to fulfill the purposes of this section.

(c) EXPANSION ZONES.—(1) Subject to the conditions, criteria, and procedures set forth in the Settlement Agreement, the Tribe shall endeavor at the outset to acquire contiguous tracts for the Expanded Reservation in the "Catawba Reservation Primary Expansion Zone", as defined in the Settlement Agreement.

(2) Subject to the conditions, criteria, and procedures set forth in the Settlement Agreement, the Tribe may elect to purchase contiguous tracts in an alternative area, the "Catawba Reservation Secondary Expansion Zone", as defined in the Settlement Agreement.

(3) The Tribe may propose different or additional expansion zones subject to the authorizations required in the Settlement Agreement and the State Act.

(d) NON-CONTIGUOUS TRACTS.—The Tribe, in consultation with the Secretary, shall take such actions as are reasonable to expand the Existing Reservation by assembling a composite tract of contiguous parcels that border and surround the Existing Reservation. Before requesting that any non-contiguous tract be placed in Reservation status, the Tribe shall comply with section 14 of the Settlement Agreement. Upon the approval of the Tribe's application under and in accordance with section 14 of the Settlement Agreement, the Secretary, in consultation with the Tribe, may proceed to place non-contiguous tracts in Reservation status. No purchases of non-contiguous tracts shall be made for the Reservation except as set forth in the Settlement Agreement and the State Act.

(e) VOLUNTARY LAND PURCHASES.—(1) The power of eminent domain shall not be used by the Secretary or any governmental authority in acquiring parcels of land for the benefit of the Tribe, whether or not the parcels are to be part of the Reservation. All such purchases shall be made only from willing sellers by voluntary conveyances subject to the terms of the Settlement Agreement.

(2) Notwithstanding any other provision of this section and the provisions of the first section of the Act of August 1, 1888 (ch. 728, 25 Stat. 357; 40 U.S.C. 257), and the first section of the Act of February 26, 1931 (ch. 307, 46 Stat. 1421; 40 U.S.C. 258a), the Secretary or

the Tribe may acquire a fractional interest in land otherwise qualifying under section 14 of the Settlement Agreement for treatment as Reservation land for the benefit of the Tribe from the ostensible owner of the land if the Secretary or the Tribe and the ostensible owner have agreed upon the identity of the land to be sold and upon the purchase price and other terms of sale. If the ostensible owner agrees to the sale, the Secretary may use condemnation proceedings to perfect or clear title and to acquire any interests of putative co-tenants whose address is unknown or the interests of unknown or unborn heirs or persons subject to mental disability.

(f) TERMS AND CONDITIONS OF ACQUISITION.—All properties acquired by the Tribe shall be acquired subject to the terms and conditions set forth in the Settlement Agreement. The Tribe and the Secretary, acting on behalf of the Tribe and with its consent, are also authorized to acquire Reservation and non-Reservation lands using the methods of financing described in the Settlement Agreement.

(g) AUTHORITY TO ERECT PERMANENT IMPROVEMENTS ON EXISTING AND EXPANDED RESERVATION LAND AND NON-RESERVATION LAND HELD IN TRUST.—Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument which conveys to the United States lands purchased pursuant to the provisions of this section and the Settlement Agreement. The Secretary or the Tribe may erect permanent improvements of a substantial value, or any other improvements authorized by law on such land after such land is conveyed to the United States.

(h) EASEMENTS OVER RESERVATION.—(1) The acquisition of lands for the Expanded Reservation shall not extinguish any easements or rights-of-way then encumbering such lands unless the Secretary or the Tribe enters into a written agreement with the owners terminating such easements or rights-of-way.

(2)(A) The Tribe, with the approval of the Secretary, shall have the power to grant or convey easements and rights-of-way, in a manner consistent with the Settlement Agreement.

(B) Unless the Tribe and the State agree upon a valuation formula for pricing easements over the Reservation, the Secretary shall be subject to proceedings for condemnation and eminent domain to acquire easements and rights-of-way for public purposes through the Reservation under the laws of the State in circumstances where no other reasonable access is available.

(C) With the approval of the Tribe, the Secretary may grant easements or rights-of-way over the Reservation for private purposes, and implied easements of necessity shall apply to all lands acquired by the Tribe, unless expressly excluded by the parties.

(i) JURISDICTIONAL STATUS.—Only land made part of the Reservation shall be governed by the special jurisdictional provisions set forth in the Settlement Agreement and the State Act.

(j) SALE AND TRANSFER OF RESERVATION LANDS.—With the approval of the Secretary, the Tribe may sell, exchange, or lease lands within the Reservation, and sell timber or other natural resources on the Reservation under circumstances and in the manner prescribed by the Settlement Agreement and the State Act.

(k) TIME LIMIT ON ACQUISITIONS.—All acquisitions of contiguous land to expand the Reservation or of non-contiguous lands to be placed in Reservation status shall be completed or under contract of purchase within 10 years from the date the last payment is made into the Land Acquisition Trust; except that for a period of 20 years after the date the last payment is made into the Catawba Land Acquisition Trust Fund, the Tribe may, subject to the limitation on the total size of the Reservation, continue to add parcels to up to two Reservation areas so long as the parcels acquired are contiguous to one of those two Reservation areas.

(l) LEASES OF RESERVATION LANDS.—The provisions of the first section of the Act of August 9, 1955 (ch. 615, 69 Stat. 539; 25 U.S.C. 415) shall not apply to the Tribe and its Reservation. The Tribe is authorized to lease its Reservation lands for terms up to but not exceeding 99 years, with or without the approval of the Secretary. With regard to any lease of Reservation lands not approved by the Secretary, the Secretary shall be exculpated by the Tribe from any liability arising out of any loss incurred by the Tribe as a result of the unapproved lease.

(m) NON-APPLICABILITY OF BIA LAND ACQUISITION REGULATIONS.—The general land acquisition regulations of the Bureau of Indian Affairs, contained in part 151 of title 25, Code of Federal Regulations, shall not apply to the acquisition of lands authorized by this section.

SEC. 13. NON-RESERVATION PROPERTIES.

(a) ACQUISITION OF NON-RESERVATION PROPERTIES.—The Tribe may draw upon the corpus or accumulated income of the Catawba Land Acquisition Trust Fund or the Catawba Economic Development Trust Fund to acquire and hold parcels of real estate outside the Reservation for the purposes and in the manner delineated in the Settlement Agreement. Jurisdiction and status of all non-Reservation lands shall be governed by section 15 of the Settlement Agreement.

(b) AUTHORITY TO DISPOSE OF LANDS.—Notwithstanding any other provision of law, the Tribe may lease, sell, mortgage, restrict, encumber, or otherwise dispose of such non-Reservation lands in the same manner as other persons and entities under State law, and the Tribe as land owner shall be subject to the same obligations and responsibilities as other persons and entities under State, Federal, and local law.

(c) RESTRICTIONS.—Ownership and transfer of non-Reservation parcels shall not be subject to Federal law restrictions on alienation, including (but not limited to) the restrictions imposed by Federal common law and the provisions of the section 2116 of the Revised Statutes (25 U.S.C. 177).

SEC. 14. GAMES OF CHANCE.

(a) INAPPLICABILITY OF INDIAN GAMING REGULATORY ACT.—The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) shall not apply to the Tribe.

(b) GAMES OF CHANCE GENERALLY.—The Tribe shall have the rights and responsibilities set forth in the Settlement Agreement and the State Act with respect to the conduct of games of chance. Except as specifically set forth in the Settlement Agreement and the State Act, all laws, ordinances, and regulations of the State, and its political subdivisions, shall govern the regulation of gambling devices and the conduct of gambling or wagering by the Tribe on and off the Reservation.

SEC. 15. GENERAL PROVISIONS.

(a) SEVERABILITY.—If any provision of section 4(a), 5, or 6 of this Act is rendered invalid by the final action of a court, then all of this Act is invalid. Should any other section of this Act be rendered invalid by the final action of a court, the remaining sections of this Act shall remain in full force and effect.

(b) INTERPRETATION CONSISTENT WITH SETTLEMENT AGREEMENT.—To the extent possible, this Act shall be construed in a manner consistent with the Settlement Agreement and the State Act. In the event of a conflict between the provisions of this Act and the Settlement Agreement or the State Act, the terms of this Act shall govern. In the event of a conflict between the State Act and the Settlement Agreement, the terms of the State Act shall govern. The Settlement Agreement and the State Act shall be maintained on file and available for public inspection at the Department of the Interior.

(c) IMPACT OF SUBSEQUENTLY ENACTED LAWS.—No law or regulation of the United States (1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and also (2) affects or preempts the civil, criminal, or regulatory jurisdiction of the State, including without limitation, laws of the State relating to land use or environmental matters, shall apply within the State.

(d) ELIGIBILITY FOR CONSIDERATION TO BECOME AN ENTERPRISE ZONE OR GENERAL PURPOSE FOREIGN TRADE ZONE.—Notwithstanding the provisions of any other law or regulation, the Tribe shall be eligible to become, sponsor and operate (1) an "enterprise zone" pursuant to title VII of the Housing and Community Development Act of 1987 (42 U.S.C. 11501–11505) or any other applicable Federal (or State) laws or regulations; or (2) a "foreign-trade zone" or "subzone" pursuant to the Foreign Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u) and the regulations thereunder, to the same extent as other federally recognized Indian Tribes.

(e) GENERAL APPLICABILITY OF STATE LAW.—Consistent with the provisions of section 4(a)(2), the provisions of South Carolina Code Annotated, section 27–16–40, and section 19.1 of the Settlement Agreement are approved, ratified, and confirmed by the United States, and shall be complied with in the same manner and to the same extent as if they had been enacted into Federal law.

(f) SUBSEQUENT AMENDMENTS TO THE SETTLEMENT AGREEMENT OR STATE ACT.—Consent is hereby given to the Tribe and the State to amend the Settlement Agreement and the State Act if consent to such amendment is given by both the State and the Tribe, and if such amendment relates to—

(1) the jurisdiction, enforcement, or application of civil, criminal, regulatory, or tax laws of the Tribe and the State;

(2) the allocation or determination of governmental responsibility of the State and the Tribe over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the Tribe;

(3) the allocation of jurisdiction between the tribal courts and the State courts; or

(4) technical and other corrections and revisions to conform the State Act and the Agreement in Principle attached to the State Act to the Settlement Agreement.

SEC. 16. TAX TREATMENT OF INCOME AND TRANSACTIONS.

Notwithstanding any provision of the State Act, the Settlement Agreement, or this Act (including any amendment made under section 15(f)), nothing in this Act, the State Act, or the Settlement Agreement—

(1) shall amend or alter the Internal Revenue Code of 1986, as amended, or any rules or regulations promulgated thereunder, or

(2) shall affect the treatment under such Code of any person or transaction other than by reason of the restoration of the trust relationship between the United States and the Tribe.

SEC. 17. EFFECTIVE DATE.

Except for sections 7, 8, and 12, the provisions of this Act shall become effective upon the transfer of the Existing Reservation under section 12 to the Secretary.

□ 1340

The SPEAKER pro tempore (Mr. MANTON). Pursuant to the rule the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, H.R. 2399 settles the Catawba Indian Tribe's land claims in the State of South Carolina and provides for the restoration of the tribe's federally recognized status.

The Catawba Tribe of South Carolina was one of the tribes terminated by statute during the 1950's. Almost all of the other terminated tribes have since been restored by statute. In addition, the Catawba Tribe have a valid, unextinguished claim to 144,000 acres in South Carolina.

After years of negotiating, the tribe, the Senate, and the landowners have reached a settlement which is memorialized in H.R. 2399. The essence of the settlement is the Catawba Indian Tribe is restored to federally recognized status and the tribe's claim to the lands are extinguished.

The subcommittee held a hearing on the bill on July 2 in which the State and tribe provided testimony in favor of the agreement. The agreement is supported by the tribe, the entire South Carolina delegation, and the National Congress of American Indians.

The bill adopted by the committee reflects negotiations and discussions among the tribe, the State, the Department of Interior, and the committees of the House and the Senate over a 4-year period. This bill provides for the restoration of the Federal trust relationship that flows from the United States to the Catawba Tribe. It provides for $32 million as the Federal contribution to the settlement of tribal land claims in South Carolina; $18 million will also be paid to the tribe from the State of South Carolina and private landowners.

The bill ratifies prior land transfers and extinguishes tribal rights and claims. The bill also provides for the establishment of a membership roll and a provisional tribal government. It allows the tribe to organize under the Indian Reorganization Act and adopt a tribal constitution.

The bill creates several trust funds for the tribe and allows the tribe the option of having an outside management company handle the funds rather than the Department of the Interior. Trust funds for social services, elderly assistance, and education are to be set up.

The bill provides for the establishment of a reservation for the tribe and the opportunity for tribal economic development initiatives.

I note that changes were made to the bill which delete all provisions relating to the Internal Revenue Code. It is our intent that the Catawba Tribe should be made eligible for treatment as a tribe under the Indian Tribal Government Tax Status Act pursuant to the regulations. In the interest of equity, the committee asserts that such tax treatment should be made retroactive to the date of enactment if this is possible. The committee asserts that individual members of the Catawba Tribe should not be taxed on the per capita distributions and supports the tribe in working with the Congress to secure such a provision. The committee supports the efforts of the tribe to pursue the other tax benefits for which it bargained.

The committee is aware that if this measure does not pass by October, 60,000 individual lawsuits will be filed by the tribe in the State of South Carolina.

Some have been critical of the concessions made by the tribe in this matter, but it is a settlement which has been negotiated over a period of years by parties who were well aware of the consequences of these concessions.

Tribal sovereignty is something that this committee is committed to preserving, protecting, and defending. Part of self-goverance is making hard choices such as those made in this instance. They have compromised in an effort to obtain this settlement. This bill is not and should not be a model for future settlements. It is not intended to be a precedent for other tribes. The bill reflects choices made by the Catawba Tribe and the State of South Carolina in a unique settlement of claims pursuant to a British treaty and the Non-Intercourse Act. The committee will respect the choices the tribe has made.

Mr. Speaker, I urge my colleagues to support this measure.

AGREEMENT IN PRINCIPLE

1. *Parties.* This Agreement in Principle is made by and between the following parties:

1.1 The Catawba Indian Tribe of South Carolina, represented by Gilbert Blue, Chief; E. Fred Sanders, Assistant Chief; Carson Blue, Secretary-Treasurer; and Tribal Executive Committee Members—Buck George, Claude Ayers, Foxx Ayers, Dewey Adams and Wilford Harris; and by Don B. Miller, Native American Rights Fund, and Robert M. Jones, Jay Bender, Richard Steele, Cheryl Perkins and Ross Swimmer, attorneys for the Catawbas.

1.2 The State of South Carolina, represented by Governor Carroll A. Campbell, Jr., and by A. Crawford Clarkson, Jr., Chairman of the Governor's Advisory Committee on the Catawba Indian Claim; by Senator Robert W. Hayes, Jr., representing the Legislative Delegations of York, Lancaster, and Chester Counties, South Carolina; by Representative John M. Spratt, Jr., representing the South Carolina Congressional Delegation.

2. *Definitions.* When used in this Agreement, the following words, terms or abbreviations shall have the meanings given below:

2.1 "Agreement" shall mean this written document, entitled "Agreement in Principle."

2.2 "Catawba Indian Tribe," "Catawbas," or "Tribe" shall mean the Catawba Indian Tribe of South Carolina as constituted in aboriginal times, which was party to the Treaty of Pine Tree Hill in 1760 as confirmed by the Treaty of Augusta in 1763, which was party also to the Treaty of Nation Ford in 1840, and which was the subject of the Catawba Indian Tribe of South Carolina Division of Assets Act, enacted September 29, 1959, codified at 25 U.S.C. §§931–938, and all predecessors and successors in interest, including the Catawba Indian Tribe of South Carolina, Inc.

2.3 "State Government" or "State" shall mean the State of South Carolina.

2.4 "Executive Committee" shall mean the body of the Catawba Indian Tribe of South Carolina composed of the Tribe's executive officers as selected by the Tribe in accordance with its constitution.

2.5 "General Council" shall mean the membership of the Tribe convened as the Tribe's governing body for the purpose of conducting tribal business pursuant to the Tribe's constitution.

2.6 "Member" or "tribal member" shall mean individuals who are currently members of the Tribe or who are enrolled in accordance with the Federal Implementing legislation.

2.7 "Secretary of the Interior" or "Secretary" shall mean the Secretary of the Department of the Interior or his designee, and "Department" or "Department of the Interior" shall refer to the United States Department of the Interior.

2.8 "Federal Government" shall mean the Government of the United States of America.

2.9 "Catawba Claim Area" shall mean that area of approximately 144,000 acres in York, Lancaster, and Chester Counties, South Carolina claimed by the Catawba Tribe under the Treaty of Pine Tree Hill in 1760 and the Treaty of Augusta in 1763, and surveyed by Samuel Wylie in 1764, and ceded by the Catawba Indian Tribe to the State of South Carolina by the Treaty of Nation Ford in 1840.

2.10 "Suit" or "Suits" shall mean *Catawba Indian Tribe of South Carolina v. State of South Carolina, et al.*, docketed as Civil Action No. 80-2050 and filed in United States District Court for the District of South Carolina and *Catawba Indian Tribe of South Carolina v. United States of America*, docketed as

Civil Action No. 90–553L and filed with the United States Court of Claims.

2.11 "Claim" or "Claims" shall mean any claim which was asserted by the plaintiffs in either Suit, and any other claim which could have been asserted by the Catawba Indian Tribe or any Catawba Indian of a right, title, or interest in property, to trespass or property damages, or of a hunting, fishing or other right to natural resources, if such claim is based upon aboriginal title, recognized title, or title by grant, patent, or treaty, including the Treaty of Pine Tree Hill of 1760, the Treaty of Augusta of 1763, or the Treaty of Nation Ford of 1840.

2.12 "Termination Act" shall mean the "Catawba Indian Tribe Division of Assets Act," enacted September 21, 1959, 73 Stat. 592, 25 U.S.C. §§931–938.

2.13 "Reservation" shall mean the tract of land now held in trust for the Tribe by the State of South Carolina, sometimes referred to herein as the "existing reservation," and lands added to the existing reservation in accordance with Section 14, sometimes referred to herein as the "expanded reservation," which are to be held in trust for the Tribe by the United States of America, acting through the Secretary of Interior, in accordance with this Agreement.

2.14 "Tribal Trust Funds" shall mean those funds set aside in trusts established for the benefit of the Tribe, as provided in Section 13.

2.15 "Implementing legislation" shall mean all appropriate federal, state and county laws and ordinances and tribal action necessary to enact and effect the terms, provisions, and conditions of settlement, as specified in §3.1 of this Agreement.

2.16 "Transfer" includes, but is not limited to, any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources.

2.17 "Internal Matters" or "Internal Tribal Matters" are matters which include, but are not limited to the following examples: the relationship between the Tribe and one or more of its members, the conduct of Tribal government over members of the Tribe, or the Tribe's exercise of the power to exclude individuals from its Reservation.

3. *Purpose; Duration of Certain Provisions Relating to Hunting and Fishing Licenses and Tax Treatment.*

3.1 *Purpose.* The purpose of this Agreement is to record the understanding of the parties with respect to settlement of the claims and suits pending in the United States District Court for the District of South Carolina entitled *Catawba Indian Tribe of South Carolina Inc. v. State of South Carolina, et al.*, docketed as Civil Action No. 80–2050, and in the United States Claims Court entitled *The Catawba Indian Tribe of South Carolina v. United States of America*, docketed as Civil No. 90–553L, and any other suit or claim, which is filed now or which may be filed in the future, all, as further defined in §§2.10 and 2.11. By signing this document, each party signifies its good faith commitment to fulfill the terms of settlement set forth in this Agreement. All parties recognize, however, that this Agreement is an agreement in principle; that to complete this Agreement, terms of settlement and implementing legislation in more explicit detail will have to be defined and drafted; and that to consummate this Agreement, formal ratification will be required by the Catawba Indian Tribe and legislation will be required to be enacted by the governing bodies of York and Lancaster Counties, by the General Assembly of South Carolina, and by the Congress of the United States. The parties agree that they will use their best efforts to ensure passage of federal, state and local legislation and tribal action implementing the provisions of this Agreement without any material change and will attempt throughout the legislative process to fulfill the intent of this Agreement. Legislation adopted by the State shall not become effective until federal legislation is enacted and reviewed by the Governor to ensure it is consistent with the provisions of this Agreement.

3.2 *Licenses and Tax Treatment.* The Tribe and its members shall be eligible to receive the hunting and fishing licenses described in §17.5 and the tax treatment described in §§18.4.2, 18.6.1, 18.9.1, 18.9.3 of this Agreement for a period of 99 years from the effective date of the State implementing legislation required to effectuate the settlement described herein.

4. *Restoration of the Federal Trust Relationship.*

4.1 *Establishment of Trust Relationship.* Upon final enactment of all local, state and federal legislation implementing this settlement, the trust relationship between the Tribe and the United States shall be restored. On the same date as the Tribe is restored, the Tribe and the members of the Tribe shall be eligible for all benefits and services furnished to federally recognized Indian Tribes and their members. The federal legislation implementing this settlement will, prospectively, repeal the Termination Act. Such repeal shall not divest or disturb title to any land conveyed to any person or firm as a result of the Termination Act and the partition and liquidation of Tribal land. The jurisdiction and governmental powers of the Tribe shall be exclusively those that are specifically enumerated in this Agreement. Except for claims extinguished under this Agreement, the enactment of the implementing legislation shall not affect any property right or obligation or any contractual right or obligation in existence before its effective date or any obligation for taxes levied before such date.

4.2 *Entitlement of Tribe and Members.* The Catawba Indian Tribe of South Carolina will be entered on the list of federally recognized bands and tribes maintained by the Department of the Interior; and its members will be entitled to special services, educational benefits, medical care, and welfare assistance provided by the United States to Indians because of their status as Indians, and the Tribe will be entitled to the special services performed by the United States for tribes because of their status as Indian tribes.

4.3 *Extent of Jurisdiction.* Federal recognition shall not be construed to empower the Catawbas with special jurisdiction, or to derogate from the jurisdiction of the State of South Carolina or its political subdivisions other than municipalities over the Catawba Indian Tribe and its members, except as expressly provided in this Agreement. The Catawba Tribe, its members, and the lands and natural resources owned by the Tribe and its members (including land and natural resources held by the United States in trust for the Tribe) shall be subject to the civil, criminal, and regulatory jurisdiction of the State, its agencies and political subdivisions other than municipalities, and the civil and criminal jurisdiction of the courts of the State to the same extent as any other person, citizen, or land in the State, except as otherwise expressly provided in this Agreement.

5. *Monetary Contributions Toward Settlement.*

5.1 *Federal Contribution.* Upon formal ratification of this Agreement by the Tribe and final enactment of all local, state and federal legislation consummating this settlement, the Federal Government shall contribute Thirty-two million and no/100 ($32,000,000) Dollars to the trust funds established in accordance with the provisions of Section 13 less any funds to be paid pursuant to §6.4 of this Agreement, in equal annual installments commencing in Fiscal Year 1995 and ending in Fiscal Year 1998, and shall begin providing the services and benefits accorded recognized tribes and their members, as provided in this Agreement.

5.2 *State, Local, and Private Contributions.* Upon formal ratification of this Agreement by the Tribe and final enactment of all local, state, and federal legislation consummating this settlement, the State, local governments and private sources shall contribute, in five equal annual installments, Eighteen million and no/100 ($18,000,000) Dollars, to the Department of the Interior, and the Secretary shall deposit such contributions, less any funds to be paid pursuant to §6.4 of this Agreement, in thetrust funds established pursuant to Section 13. Any private payments made under this Agreement shall be treated as either a payment in settlement in litigation or a charitable contribution for federal and state income tax purposes.

6. *Extinguishment of Claims, Dismissal of Suits, Ratification of a Prior Transfer.*

6.1 In consideration of the payments set forth in Section 5 of other benefits accruing to the Tribe and its members under this Agreement, the federal legislation implementing this settlement shall extinguish all claims and all right, title, and interest that the Tribe, its members, or any one or more of its members, or any person or group of persons purporting to be Catawba Indians, may have to aboriginal title, recognized title, or title by grant, patent, or treaty, to the lands located anywhere in the United States; except, however, that this quitclaim and release shall not apply to the 630-acre Reservation, now held in trust by the State of South Carolina; nor shall it divest or disturb any member of the Tribe of any fee simple, leasehold, or remainder estate, or any equitable or beneficial interest, he or she may own and hold individually, and not as members of the Tribe, in any parcels of land anywhere in the United States.

6.2 In further consideration of the payments set forth in Section 5 and other benefits accruing to the Tribe and its members under this Agreement, the federal legislation implementing this settlement shall also extinguish any hunting, fishing, or waters right or rights to any other natural resources claimed by the Tribe based on aboriginal or treaty recognized title, and all trespass damages and other damages associated with use, occupancy or possession, or entry upon such lands, including without limitation all profits and rents derived from such lands, and any timber, soil, minerals, crops, or other natural resources taken from such lands; provided, however, that extinguishment of the claim shall in no way diminish or derogate from the fee simple estate in the existing reservation now held by the State as trustee for the benefit of the Catawbas.

6.3 The Tribe shall accept the payments set forth in Section 5 of the benefits provided under this Agreement as just and full compensation for, and the Federal Implementing

legislation shall ratify and approve, all prior transfers of lands by the Tribe, its members or any one or more of its members within the United States, including the cession of title purportedly effected by the Treaty of Nation Ford in 1840, and to the extent that such cession may have included aboriginal title, such legislation shall extinguish aboriginal title as of the effective date of transfer; provided, however that nothing in this section shall be construed to affect, diminish, or eliminate the personal claim of any individual Indian which is pursued under any law of general applicability that protects non-Indians as well as Indians. By virtue of such approval and ratification, together with the extinguishment of aboriginal title, all claims based on aboriginal, recognized title, or title by grant, patent or treaty against the United States, or against any state or subdivision of any state, or any person or entity, by the Catawba Indian Tribe, or by any member or members of the Tribe, or by any person or group of persons purporting to be Catawba Indians, including but not limited to possessory claims and claims for ejectment, claims for trespass damages, and claims for use, occupancy, hunting, fishing, or extraction and removal of natural resources, and any accounting therefor, arising from the beginning of time to the date of such legislation shall be canceled, released, and forever extinguished. Adoption of the federal and state legislation implementing this Agreement shall constitute a general discharge of all obligations of the United States, the State and all of their political subdivisions, agencies and departments, including claims asserted in the Suits defined in §2.10 arising out of any treaty or agreement, including the Treaty of Nation Ford, the Treaty of Augusta and the Treaty of Pine Tree Hill, with the Tribe, its members or any one or more of its members.

6.4 Upon final enactment of all implementing legislation, the Tribe shall duly consent to the dismissal with prejudice of the suits, and shall executive and deliver to the State and the United States full and final releases of all their claims against the State and the United States and all other defendants and landowners in the Claim Area, including defendants not yet named or sued. The parties to the suits shall bear their own costs and attorney fees. The Federal Implementing legislation shall authorize and direct the Secretary of the Interior to pay to the Tribes' attorneys attorney fees and expenses not to exceed ten and no/100 (10%) percent of the funds paid pursuant to Section 5 of this Agreement upon receipt by the Secretary of a written request from the Tribe containing:

6.4.1 A certification by the Tribe that the Tribe consents to and authorizes the payment by the Secretary of its attorneys' fees incurred in the Suits and the settlement of the Tribe's claims from the $50,000,000 obligated for payment to the Tribe by Federal, State, local, and private parties pursuant to Section 5 of the Settlement Agreement;

6.4.2 A certification by the Tribe that the Tribe has received and reviewed the attorneys' documentation of their fees and finds the fees reasonable; and

6.4.3 A schedule of payments of the attorneys' fees, approved by the Tribe, that provides for disbursements to the attorneys by the Secretary in four equal annual installments beginning in the first fiscal year that Federal funds are appropriated for payment to the Tribe pursuant to Section 5 of the Federal Implementing legislation.

The Secretary shall disburse the four annual payments to the attorneys required by this section within 30 days of the Federal appropriation to the Tribe in each fiscal year and prior to depositing the Federal Implementing legislation.

6.5 The federal legislation implementing this settlement shall bar the United States from asserting by or on behalf ofthe Tribe, any one or more of its members, or anyone purporting to be a Tribal member, any claim arising before the date of such legislation from the transfer of any land or natural resources of the Tribe by'deed or other grant, or by treaty, compact, or act of law, on the grounds that such transfer was not made in accordance with the laws of the State or the United States. The federal legislation implementing this settlement shall also provide that any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Tribe, or any of its members, or anyone purporting to be a Tribal member, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (Chapter 33, Section 4, 1 Statutes 137, 138), and all amendments thereto and subsequent reenactments and versions thereof; and Congress will ratify and approve any such transfer as of its effective date; provided, however, that nothing in this section shall be construed to affect, diminish, or eliminate the personal claim of any individual Indian (except for any federal common law fraud claim or other action to recover for a Claim as defined in §2.11 which is pursued under any law of general applicability that protects non-Indians as well as Indians.

6.6 The provisions of this section shall take effect immediately upon adoption of federal and state legislation implementing the provisions of this settlement. The Tribe shall have a cause of action in the United States District Court for the District of South Carolina as provided in S.C. Code Ann. §27–16–50(E) to recover any part of the State's obligation still remaining unpaid.

7. *Base Membership Roll.*

7.1 *Base Membership Roll Criteria.* Within one year after enactment of this section, the Tribe shall submit to the Secretary for approval, its base membership roll. An individual is eligible for inclusion on the base membership roll if that individual is living on the date of enactment of this Act and—

7.1.1 is listed on the membership roll published by the Secretary in the Federal Register on February 25, 1961 (26 Federal Register 1680–1688), "Notice of Final Membership Roll" and is not excluded under the provisions of §7.3; or

7.1.2 the Executive Committee determines, based on the criteria used to compile the roll referred to in §7.1.1, that the individual should have been included on the membership roll at that time, but was not; or

7.1.3 is a lineal descendant of a Member whose name appeared or should have appeared on the membership roll referred to in §7.1.1.

7.2 *Base Membership Roll Notice.* Within 90 days after the enactment of the Federal Implementing legislation, the Secretary shall publish in the Federal Register, and in three newspapers of general circulation in the Tribe's service area, a notice stating:

7.2.1 that a base membership roll is being prepared by the Tribe and that the current membership roll is open and will remain open for a period of 90 days;

7.2.2 the requirements for inclusion on the base membership roll;

7.2.3 the Final Membership roll published by the Secretary in the Federal Register on February 25, 1961;

7.2.4 the current membership roll as prepared by the Executive Committee and approved by the General Council; and

7.2.5 the name and address of the tribal or Federal official to whom inquiries should be made.

7.3 *Completion of Base Membership Roll.* Within 120 days after publication of notice under §7.2, the Secretary, after consultation with the Tribe, shall prepare and publish in the Federal Register and in three newspapers of general circulation in the Tribes's service a proposed final base membership roll of the Tribe. Within 60 days from the date of publication of the proposed final base membership roll, an appeal may be filed with the Executive Committee under rules made by the Executive Committee in consultation with the Secretary. Such an appeal may be filed by a Member with respect to the inclusion of any name on the proposed final base membership roll and by any person with respect to the exclusion of his or her name from the final base membership roll. The Executive Committee shall review such appeals and render a decision, subject to the Secretary's approval. If the Executive Committee and the Secretary disagree, the Secretary's decision will be final. All such appeals shall be resolved within 90 days following publication of the proposed roll. The final base membership roll of the Tribe shall then be published in the Federal Register, and in three newspapers of general circulation in the Tribe's service area, and shall be final for purposes of the distribution of funds from the Per Capita Trust Fund.

7.4 *Future Membership in the Tribe.* The Tribe shall have the right to determine future membership in the Tribe; however, in no event may an individual be enrolled as a tribal member unless the individual is a lineal descendent of a person on the base membership roll and has continued to maintain political relations with the Tribe.

8. *Transitional and Provisional Government.*

8.1 *Future Tribal Government.* The Tribe shall adopt a new constitution within 24 months after the effective date of the Federal Implementing legislation.

8.2 *Executive Committee as Transitional Body.*

8.2.1 Until the Tribe has adopted a constitution, the existing tribal constitution shall remain in effect and the Executive Committee is recognized as the provisional and transitional governing body of the Tribe. Until an election of tribal officers under the new constitution, the Executive Committee shall—

8.2.1.1 represent the Tribe and its Members in the implementation of this Act; and

8.2.1.2 during such period—

8.2.1.2.1 have full authority to enter into contracts, grant agreements and other arrangements with any Federal department or agency; and

8.2.1.2.2 have full authority to administer or operate any program under such contracts or agreements.

8.2.2 Until the initial election of tribal officers under a new constitution and bylaws, the Executive Committee shall—

8.2.2.1 determine tribal membership in accordance with the provisions of Section 7; and

8.2.2.2 oversee and implement the revision and proposal to the Tribe of a new constitution and conduct such tribal meetings and elections as are required by the Federal Implementing legislation.

9. *Tribal Constitution and Governance.*

9.1 *Indian Reorganization Act.* If the tribe so elects, it may organize under the Act of

June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"). The Tribe shall be subject to such Act except to the extent such sections are inconsistent with the Federal Implementing legislation.

9.2 *Adoption of New Tribal Constitution.* Within 180 days after the effective date of the Federal Implementing legislation, the Executive Committee shall draft and distribute to each Member eligible to vote under the tribal constitution in effect on the effective date of the Federal Implementing legislation, a proposed constitution and bylaws for the Tribe together with a brief, impartial description of the proposed constitution and bylaws and a notice of the date, time and location of the election under this section. Not sooner than 30 days or later than 90 days after the distribution of the proposed constitution, the Executive Committee shall conduct a secret-ballot election to adopt a new constitution and bylaws.

9.3 *Majority Vote for Adoption; Procedure in Event of Failure to Adopt Proposed Constitution.*

9.3.1 The tribal constitution and bylaws shall be ratified and adopted if—

9.3.1.1 not less than 30 percent of those entitled to vote do vote; and

9.3.1.2 approved by a majority of those actually voting.

9.3.2 If in any such election such majority does not approve the adoption of the proposed constitution and bylaws, the Executive Committee shall prepare another proposed constitution and bylaws and present it to the Tribe in the same manner provided in this section for the first constitution and bylaws. Such new proposed constitution and bylaws shall be distributed to the eligible voters of the Tribe no later than 180 days after the date of the election in which the first proposed constitution and bylaws failed of adoption. An election on the question of the adoption of the new proposal of the Executive Committee shall be conducted in the same manner provided in §9.2 for the adoption of the first proposed constitution and bylaws.

9.4 *Election of Tribal Officers.* Within 120 days after the Tribe ratifies and adopts a constitution and bylaws, the Executive Committee shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution and bylaws. Subsequent elections shall be held in accordance with the Tribe's constitution and bylaws.

9.5 *Extension of Time.* Any time periods prescribed in §§9.2 and 9.5 may be altered by written agreement between the Executive Committee and the Secretary.

10. *Jurisdiction and Governance of the Reservation.*

10.1 *Governance.* Except as otherwise provided in this Agreement, the Tribe shall exercise full authority over internal tribal matters.

10.2 *Powers of Tribe.* Regardless of whether the Tribe elects to organize under the Indian Reorganization Act, in any constitution adopted by the Tribe, the Tribe may be authorized to the extent which is consistent with this Agreement (i) to regulate the use and disposition of tribal property; (ii) to define laws, petty crimes and rules of conduct applicable to members of the Tribe while on the Reservation, supplementing but not supplanting criminal laws of the State of South Carolina; (iii) to regulate the conduct of businesses located on the Reservation and individuals residing on the Reservation; (iv) to levy taxes on members of the Tribe and levy other taxes as provided in S.C. Code Ann. §27-16-130; and (v) to grant exemptions, abatements or waivers from any tribal laws, tribal regulations, or tribal taxes, except the Tribal Sales and Use Taxes, otherwise applicable on the Reservation, including waivers of the jurisdiction of any tribal court; (vi) to adopt its own form of government; (vii) to determine membership as provided in Section 7 of this Agreement and the Federal Implementing legislation; (viii) to exclude nonmembers from its membership rolls and from the Reservation, except for (a) any public roads traversing the Reservation; (b) passage on and use of the Catawba River; (c) public or private easements encumbering the Reservation properly used by those with authority to use such easements; (d) federal, state, and local governmental officials and employees duly performing official governmental functions on the Reservation; and (e) any other access to the Reservation allowed by federal law; and (ix) to charter tribally-owned economic development corporations and enterprises provided, the corporations or enterprises register with the Secretary of State for South Carolina as a domestic or foreign corporation when doing business off the Reservation.

10.3 *Indian Civil Rights Act.* The Tribe shall be subject to the Indian Civil Rights Act, 25 U.S.C. §§1301-1303, 1311, 1312, 1321-1326, 1331, 1341, and any amendments thereto, which shall apply to the Reservation and any tribal court and to anyone subject to its jurisdiction.

11. *Criminal Jurisdiction.*

11.1 Except as provided in this section, South Carolina shall exercise exclusive jurisdiction over all crimes under the statutory or common law of the State.

11.2 A constitution adopted by the Tribe may provide for a tribal court with criminal jurisdiction.

11.2.1 If a tribal court with criminal jurisdiction is created, the territorial jurisdiction of the court both original and appellate must be limited to the Reservation; the jurisdiction of the court over persons must be limited to members of the Tribe; and the subject matter jurisdiction of the court is limited to crimes within the jurisdiction of the State Magistrates' Courts and to any additional misdemeanors and petty offenses specified in the ordinances or laws adopted by the Tribe. The fines and penalties for the offenses may not exceed the maximum fines and penalties that a state magistrate's court may impose.

11.2.2 In all cases in which the tribal court has jurisdiction over state law, its jurisdiction must be concurrent with the jurisdiction of the Magistrates' Courts of the State; and defendants shall have the right to remove their cases to the Magistrate's Court or appeal their convictions in Tribal Court cases to the General Session Court, in the same manner that Magistrate's Court decisions may be appealed, or in accordance with procedures the General Assembly may provide. In cases where the tribal court is applying those additional ordinances or laws described in §11.2.1, it shall have exclusive jurisdiction.

11.3 For the purpose of enforcing the Tribe's powers provided by this Section and the Federal Implementing legislation, the Tribe may employ peace officers.

11.3.1 If the Tribe elects to employ peace officers, all tribal peace officers shall undergo and pass the same course of training required of sheriff's deputies by South Carolina.

11.3.2 The State, the Counties of York and Lancaster, and the Tribe shall enter into a cross-deputization agreement whereby tribal law enforcement officers are authorized to enforce state, county, and tribal law within the Reservation against members and nonmembers of the Tribe, and state and county law enforcement officers are authorized to enforce state, county, and tribal law within the Reservation against members and nonmembers of the Tribe. However, if the Reservation is located in only one of the two counties, only the sheriff of that county shall enter into a cross deputization agreement as provided in this section.

12. *Civil Jurisdiction: Jurisdiction of Tribal Court.*

12.1 The Tribe may provide in its constitution for a Tribal court having civil jurisdiction which may extend up to, but not exceed, the extent provided in this section and the Federal Implementing legislation. The Tribe may have a court of original jurisdiction, as well as an appellate court.

12.1.1 With respect to actions on contracts, the Tribal Court may be vested with jurisdiction over an action on a contract:

12.1.1.1 to which the Tribe or a member of the Tribe is a party, which expressly provides in writing that the Tribal Court has concurrent or exclusive jurisdiction.

12.1.1.2 between the Tribe or a member of the Tribe and other parties or their agents who are physically present on the Reservation when the contract is made, and which is to be performed in part on the Reservation so long as the contract does not expressly exclude jurisdiction of the Tribal Court. For purposes of this section, the delivery of goods or the solicitation of business on the Reservation does not constitute part performance sufficient to confer jurisdiction.

12.1.1.3 to which the Tribe or a member of the Tribe is a party where more than fifty percent of the services to be rendered are performed on the Reservation, so long as the contract does not expressly exclude jurisdiction of the Tribal Court.

12.1.2 With respect to actions in tort, the Tribal Court may be vested with jurisdiction over an action arising out of:

12.1.2.1 an intentional tort, as defined by South Carolina law, committed on the Reservation, in which recovery is sought for bodily injuries or damages to tangible property located on the Reservation.

12.1.2.2 negligent tortious conduct occurring on the Reservation or conduct occurring on the Reservation for which strict liability may be imposed, excluding, however, accidents occurring within the right-of-way limits of a highway, road, or other public easement owned or maintained by the State or its subdivisions or by the United States, which abuts or crosses the Reservation. However, an action in tort involving a nonmember of the Tribe as defendant may be removed to a state or federal court of appropriate jurisdiction if the amount in controversy exceeds the jurisdictional limits then applicable to magistrate's court in South Carolina.

12.1.3 The Tribal Court may be vested with exclusive jurisdiction over the internal matters of the Tribe.

12.1.4 The Tribal Court also may be vested with jurisdiction over domestic relations where both spouses to the marriage are members of the Tribe and both reside on the Reservation or last resided together on the Reservation before the separation leading to their divorce.

12.1.5 The Tribal Court also may be vested with jurisdiction to enforce against a business located on the Reservation and members or nonmembers residing on the Reservation, tribal civil regulations regulating conduct on the Reservation enacted pursuant to

Sections 10 or 17 of this Agreement. Any entity or person subject to those regulations is charged with notice of theTribe's regulations governing conduct on the Reservation and is subject to the enforcement of the regulations in the Tribal Court unless the Tribe specifically has exempted the entity or person from any or all regulation or enforcement in Tribal Court.

12.2 The original jurisdiction of the Tribal Court over the matters set forth in §§12.1.1.2, 12.1.1.3, 12.1.2, 12.1.4 must be concurrent with the jurisdiction of the Court of Common Pleas of South Carolina, the Family Court, and the United States District Court for South Carolina. The original jurisdiction of the Tribal Court over the matters set forth in §12.1.1.1 must be concurrent or exclusive depending upon the agreement of the parties. The original jurisdiction of the Tribal Court over matters set forth in §12.1.3 must be exclusive. The original jurisdiction of the Tribal Court over matters set forth in §12.1.5 must be exclusive unless the Tribe has waived exclusive jurisdiction as to any person or entity. As to all sections referred to in this section, jurisdiction over appeals, if any, must be governed by §12.4.

12.3 The Tribe may waive Tribal Court jurisdiction or the application of tribal laws with respect to a person or firm residing, doing business, or otherwise entering upon the Reservation or contracting with the Tribe. In any contract or commercial transaction, a member of the Tribe may waive Tribal Court jurisdiction or specify in the contract the law of an appropriate jurisdiction to govern the commercial transaction or the interpretation of a contract.

12.4 All final judgments entered in actions tried in Tribal Court are subject to an appeal to the Family Court, the Court of Common Pleas, or the United States District court, depending upon whether that court would have had jurisdiction over the appealed matter had it been commenced in that court, if all of the following circumstances exist:

12.4.1 A party to the suit is not a member of the Tribe;

12.4.2 The amount in controversy or the cost of complying with an equitable order or decree exceeds the jurisdictional limits then applicable to the magistrates' courts of South Carolina;

12.4.3 The subject matter of the suit does not fall within §12.1.1.1 if jurisdiction is exclusive or §§12.1.3 or 12.1.5. The Tribe may enlarge the right of appeal to include other subject matters and members of the Tribe, subject to rules and procedures the applicable court and relevant State laws may provide.

12.4.4 In an appeal, the court, as appropriate, may:

12.4.4.1 Enter judgment affirming the Tribal Court;

12.4.4.2 Dismiss the case for lack of jurisdiction of the Tribal Court, but only in those cases where the Tribal Court first has addressed the issue of its jurisdiction;

12.4.4.3 Reverse or remand the case for retrial or reconsideration in Tribal Court; or

12.4.4.4 Grant a trial de novo in its court.

12.4.5 In an appeal, a trial, or a trial de novo, the reviewing court shall apply any regulation enacted pursuant to Tribal authority.

12.4.6 In cases subject to §§12.1.2 or 12.4, all final judgments of the Tribal Court must be given full faith and credit in the state or federal court with appropriate jurisdiction, and the Tribal Court shall grant full faith and credit to state or federal court a final judgments.

12.4.7 If a member of the Tribe seeks to enforce against a nonmember in state or federal court a final judgment of the Tribal Court in a case which is not subject to the provisions of 12.1.2 or 12.1.4, the judgment shall be reviewed by the state court in the manner provided in the Uniform Arbitration Act, S.C. Code Ann. 15-48-10 et seq. and by the federal court in the manner provided in the United States Arbitration Act, Title 9 U.S. Code.

12.5 *Sovereign Immunity.*

12.5.1 The Tribe may sue or be sued, in a court of competent jurisdiction. However, the Tribe enjoys sovereign immunity including damage limits and, except as provided in this section, immunity from seizure, execution, or encumbrance of properties, to the same extent as the political subdivisions of the State as provided in the South Carolina Tort Claims Act, chapter 78 of Title 15. With respect to nonconsumer liability based on contract, however, the Tribe, in a written contract, may provide that it is immune from suit on that contract as if there had been no waiver of sovereign immunity.

12.5.2 Notwithstanding the provisions of this section, the Tribe is subject to suit as provided in §27-16-120(B) of the State Implementing Act.

12.5.3 The Tribe shall procure and maintain liability insurance with the same coverage and limits as required of political subdivisions of the State by S.C. Code Ann. 15-78-140(B).

12.5.4 An action alleging tortious conduct by an employee of the Tribe acting within the scope of his duties which seeks money damages against the Tribe must name only the Tribe as a party defendant.

12.5.5 A settlement or judgment in an action or a settlement of a claim filed with the Tribe constitutes a complete bar to further action by the claimant against the Tribe by reason of the same occurrence.

12.5.6 A claimant may file a verified claim for damages with the Tribe before filing suit but is not required to file the claim as a prerequisite to filing suit.

12.5.6.1 The claim must set forth the circumstances which brought about the loss, the extent of the loss, the time and the place the loss occurred, the names of all witnesses, if known, and the amount of the loss sustained.

12.5.6.2 The Tribe shall designate an employee or office to accept the filing of claims. Filing may be accomplished by receipt by the Tribe's designee of certified mailing of the claims or by compliance with the provisions of law relating to services of process.

12.5.6.3 If filed, the claim must be received within one year after the loss was or should have been discovered.

12.5.6.4 The Tribe has one hundred eighty days from the date of the filing of the claim in which to determine whether the claim is allowed or disallowed. Failure to notify the claimant of action upon the claim within one hundred eighty days after the filing of the claim is considered a disallowance of the claim.

12.5.6.5 While the filing of the claim is not required as a prerequisite to suit, if a claimant files a claim, he may not institute an action until after the occurrence of the earliest of one of the following three events:

12.5.6.5.1 passage of one hundred eighty days from the filing of the claim with the Tribe;

12.5.6.5.2 the Tribe's disallowance of the claim;

12.5.6.5.3 the Tribe's rejection of a settlement offer.

12.5.7 The provisions of the following sections of the South Carolina Tort Claims Act apply to the Tribe to the same extent as they apply to the State and its political subdivisions:

12.5.7.1 §15-78-100(c), joint tort-feasors;

12.5.7.2 §15-78-110, statute of limitations;

12.5.7.3 §15-78-170, survival actions;

12.5.7.4 §15-78-190, applicability of uninsured or underinsured defendant insurance.

12.5.8 If the Tribe's insurance coverage is inadequate or unavailable to satisfy a judgment within the limits of the Tort Claims Act, neither the judgment nor any other process may be levied upon the corpus or principal of the Tribal Trust Funds or upon property held in trust for the Tribe by the United States. However, the tribe or the Secretary of Interior shall honor valid orders of a federal or state court which enters money judgments for causes of action against the Tribe arising after the effective date of this Agreement, by making an assignment to the judgment creditor of the right to receive income out of the next quarterly payment or payments of income from the Tribal Trust Funds.

12.6 *Indian Child Welfare Act.* The Indian Child Welfare Act, 25 U.S.C. §1901, et seq., (ICWA) shall apply to Catawba Indian children except as provided in this Section. Before the Tribe may assume jurisdiction over Indian child custody proceedings under the ICWA, the Tribe shall present to the Secretary for approval a petition to assume such jurisdiction, and the Secretary shall approve the petition in the manner prescribed in ICWA. Any petition to assume jurisdiction over Indian child custody proceedings by the Tribe shall be considered and determined by the Secretary in accordance with the relevant provisions of ICWA. Assumption of jurisdiction under ICWA shall not affect any action or proceeding over which a court has already assume jurisdiction. Until the Tribe has assumed jurisdiction over Indian child custody proceedings, the State shall retain exclusive jurisdiction over Indian custody proceedings; however, the State Court shall apply the Indian Child Welfare Act. ICWA shall not apply to private adoptions of Indian children under the jurisdiction of the Catawba Tribe under the ICWA where both parents consent to the adoption, or in the case of an unwed mother, the mother consents to the adoption when the father's consent is not necessary for the adoption under South Carolina Law §20-7-1690 and any amendments thereto, and the parents or mother help choose adoptive parents, regardless of whether or not the adoptive parents are outside the preferences of the ICWA. However, the court may consider any benefits, material and cultural, the child may lose in determining whether the proposed adoption is in the best interests of the child; provided, however, that failure of the courts to make this consideration shall not be subsequently held to invalidate the adoption. In all cases of adoption, regardless of whether the ICWA applies, 25 U.S.C. §1917 shall apply.

12.7 If no Tribal Court is established by the Tribe, the State shall exercise jurisdiction over all civil and criminal causes arising out of acts and transactions occurring on the Reservation or involving members of the Tribe. If the Tribe does establish a Tribal Court pursuant to Sections 11 or 12, §11.2.2 or §12.2 governs whether jurisdiction is exclusive or concurrent.

13. *Tribal Trust Funds.*

13.1 *Purposes of Trust Funds.* All funds paid pursuant to Section 5 of this Agreement, except for payments made pursuant to

§6.4, shall be deposited with the Secretary in trust for the benefit of the Tribe. Separate trust funds shall be established for the following purposes: Economic Development, Land Acquisition, Education, Social Services and Elderly Assistance, and Per Capita Payments. Except as provided in this section, the Tribe, in consultation with the Secretary, shall determine the share of settlement payments to be deposited in each Trust Fund, and define, consistently with the provisions of this section, the purposes of each Trust Fund and provisions of this section, the purposes of each Trust Fund and provisions for administering each, specifically including provisions for periodic distribution of current and accumulated income, and for invasion and restoration of principal.

13.2 *Outside Management Option.*

13.2.1 The Tribe, in consultation with and subject to the approval of the Secretary, as set forth in this Section, is authorized to place any of the Trust Funds under professional management, outside the Department of the Interior.

13.2.2 If the Tribe elects to place any of the Trust Funds under professional management outside the Departmentof the Interior, it may engage a consulting or advisory firm to assist in the selection of an independent professional investment management firm, and it shall engage, with the approval of the Secretary, an independent investment management firm of proven competence and experience established in the business of counseling large endowments, trusts, or pension funds.

13.2.3 The Secretary shall have 45 days to approve or reject any independent investment management firm selected by the Tribe. If the Secretary fails to approve or reject the firm selected by the Tribe within 45 days, the investment management firm selected by the Tribe shall be deemed to have been approved by the Secretary.

13.2.4 Secretarial approval of an investment management firm shall not be unreasonably withheld, and any Secretarial disapproval of an investment management firm shall be accompanied by a detailed explanation setting forth the Secretary's reasons for such disapproval.

13.2.5 For funds placed under professional management, the Tribe, in consultation with the Secretary and its investment manager, shall develop—

13.2.5.1.1 current operating and long-term capital budgets; and

13.2.5.1.2 a plan for managing, investing, and distributing income and principal from the Trust Funds to match the requirements of the Tribe's operating and capital budgets.

13.2.5.2 For each Trust Fund which the Tribe elects to place under outside professional management, the investment plan shall provide for investment of Trust Fund assets so as to serve the purposes described in this section and in the Trust Fund provisions which the Tribe shall establish in consultation with the Secretary and the independent investment management firm.

13.2.5.3 Distributions from each Trust Fund shall not exceed the limits on the use of principal and income imposed by the applicable provisions of this Agreement for that particular Trust Fund.

13.2.5.4.1 The Tribe's investment management plan shall not become effective until approved by the Secretary.

13.2.5.4.2 Upon submission of the plan by the Tribe to the Secretary for approval, the Secretary shall have 45 days to approve or reject the plan. If the Secretary fails to approve or disapprove the plan within 45 days, the plan shall be deemed to have been approved by the Secretary and shall become effective immediately.

13.2.5.4.3 Secretarial approval of the plan shall not be unreasonably withheld and any secretarial rejection of the plan shall be accompanied by a detailed explanation setting forth the Secretary's reasons for rejecting the plan.

13.2.5.5 Until the selection of an established investment management firm of proven competence and experience, the Tribe shall rely on the management, investment, and administration of the Trust Funds by the Secretary pursuant to the provisions of this section.

13.3 *Transfer of Trust Funds; Exculpation of Secretary.* Upon the Secretary's approval of the Tribe's investment management firm and investment management plan, all funds previously deposited in trust funds held by the Secretary and all funds subsequently paid into the trust funds, which are chosen for outside management, shall be transferred to the accounts established by an investment management firm in accordance with the approved investment management plan. The Secretary shall be exculpated by the Tribe from liability for any loss of principal or interest resulting from investment decisions made by the investment management firm. Any Trust Fund transferred to an investment management firm shall be returned to the Secretary upon wrftten request of the Tribe, and the Secretary shall manage such funds for the benefit of the Tribe.

13.4 *Land Acquisition Trust.*

13.4.1 The Secretary shall establish and maintain a Catawba Land Acquisition Trust Fund, and until the Tribe engages an outside firm for investment management of this trust fund, the Secretary shall manage, invest, and administer this trust fund. The original principal amount of the Land Acquisition Trust Fund shall be determined by the Tribe in consultation with the Secretary.

13.4.2 The principal and income of the Land Acquisition Trust Fund may be used for the purchase and development of Reservation and non-Reservation land pursuant to the Settlement Agreement, costs related to land acquisition, and costs of construction of infrastructure and development of the Reservation and non-Reservation land.

13.4.2.1 Upon acquisition of the maximum amount of land allowed for expansion of the Reservation, or upon request of the Tribe and approval of the Secretary pursuant to the Secretarial approval provisions set forth in §13.2.5.4 of this section, all or part of the balance of this trust fund may be merged into one or more of the Economic Development Trust Fund, the Education Trust Fund, or the Social Services and Elderly Assistance Trust Fund.

13.4.2.2 Alternatively, at the Tribe's election, the Land Acquisition Trust Fund may remain in existence after all the Reservation land is purchased in order to pay for the purchase of non-Reservation land.

13.4.2.3 The Tribe may pledge or hypothecate the income and principal of the Land Acquisition Trust Fund to secure loans for the purchase of Reservation and non-Reservation lands.

13.4.2.4 Following the effective date of the Federal Implementing legislation and before the final annual disbursement is made as provided in section 5 of the Federal Implementing legislation, the Tribe may pledge or hypothecate up to 50 percent of the unpaid annual installments required to be paid to this Trust Fund, the Economic Development Trust Fund and the Social Services and Elderly Assistance Trust Fund by section 5 of the Federal Implementing legislation and by Section 5 of this Agreement, to secure loans to finance the acquisition of Reservation or non-Reservation land or infrastructure improvements on such lands.

13.5 *Economic Development Trust.*

13.5.1 The Secretary shall establish and maintain a Catawba Economic Development Trust Fund, and until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer this Trust Fund. The original principal amount of the Economic Development Trust Fund shall be determined by the Tribe in consultation with the Secretary. The principal and income of this Trust Fund may be used to support tribal economic development activities, including but not limited to infrastructure improvements and tribal business ventures and commercial investments benefiting the Tribe.

13.5.2 The Tribe, in consultation with the Secretary, may pledge or hypothecate future income and up to 50 percent of the principal of this Trust Fund to secure loans for economic development. In defining the provisions for administration of this Trust Fund, and before pledging or hypothecating future income or principal, the Tribe and the Secretary shall agree on rules and standards for the invasion of principal and for repayment or restoration of principal, which shall encourage preservation of principal, and provide that, if feasible, a portion of all profits derived from activities funded by principal be applied to repayment of the Trust Fund.

13.5.3 Following the effective date of the Federal Implementing legislation and before the final annual disbursement is made as provided in section 5 of the Federal Implementing legislation, the Tribe may pledge or hypothecate up to 50 percent of the unpaid annual installments required to be paid by section 5 of the Federal Implementing legislation and by Section 5 of this Agreement to secure loans to finance economic development activities of the Tribe, including (but not limited to) infrastructure improvements on Reservation and non-Reservation lands.

13.5.4 If the Tribe develops sound lending guidelines approved by the Secretary, a portion of the income from this Trust Fund may also be used to fund a revolving credit account for loans to support tribal businesses or business enterprises of tribal members.

13.6 *Education Trust.* The Secretary shall establish and maintain a Catawba Education Trust Fund, and until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer this Trust Fund. The original principal amount of this Trust Fund shall be determined by the Tribe in consultation with the Secretary; subject to the requirement that upon completion of all payments into the Trust Funds, an amount equal to at least ⅓ of all State, local, and private contributions made pursuant to the Settlement Agreement shall have been paid into the Education Trust Fund. Income from this Trust Fund shall be distribution to the Executive Committee periodically to fund vocational, adult, special and higher educational assistance programs administered by the Executive Committee for members of the Tribe. The principal of this Trust Fund shall not be invaded or transferred to any other Trust Fund, nor shall it be pledged or encumbered as security.

13.7 *Social Services and Elderly Assistance Trust.*

13.7.1 The Secretary shall establish and maintain a Catawba Social Services and Elderly Assistance Trust Fund and, until the

Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer the Social Services and Elderly Assistance Trust Fund. The original principal amount of this Trust Fund shall be determined by the Tribe in consultation with the Secretary.

13.7.2 The income of this Trust Fund shall be periodically distributed to the Tribe to support social services programs, including (but not limited to) housing, care of elderly, or physically or mentally disabled Members, child care, supplemental health care, education, cultural preservation, burial and cemetery maintenance, and operation of tribal government.

13.7.3 The Tribe, in consultation with the Secretary, shall establish eligibility criteria and procedures to carry out this section.

13.8 *Per Capita Payment Trust Fund.*

13.8.1 The Secretary shall establish and maintain a Catawba Per Capita Payment Trust Fund in amount equal to 15 percent of the settlement funds paid pursuant to Section 5 of this Agreement. Until the Tribe engages an outside firm for investment management of this Trust Fund, the Secretary shall manage, invest, and administer the Catawba Per Capita Payment Trust Fund.

13.8.2 Each person whose name appears on the final base membership roll of the Tribe published by the Secretary pursuant to Section 7 will receive a onetime, nonrecurring payment from this Trust Fund.

13.8.3 The amount payable to each member shall be determined by dividing the trust principal and any accrued interest thereon by the number of members on the final base membership roll.

13.8.4.1 Subject to the provisions of this section each enrolled member who has reached the age of 21 years on the date the final base membership roll is published shall receive the payment on the date of distribution, which shall be as soon as practicable after date of publication of the final base membership roll. Adult Members shall be paid their pro rata share of this Trust Fund on the date of distribution unless they elect in writing to leave their pro rata share in the Trust Fund, in which case such share shall not be distributed.

13.8.4.2 The pro rata share of Adult Members who elect not to withdraw their payment from this Trust Fund shall be managed, invested and administered, together with the funds of Members who have not attained the age of 21 years on the date the final base membership roll is published, until such Member requests in writing that their pro rata share be distributed, at which time such Member's pro rata share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of distribution.

13.8.4.3 No Member may elect to have their pro rata share managed by this Trust Fund for a period of more than 21 years after the date of publication of the final base membership roll.

13.8.5.1 Subject to the provisions of this section, the pro rata share of any Member who has not attained the age of 21 years on the date the final base membership roll is published shall be managed, invested and administered pursuant to the provisions of this section until such Member has attained the age of 21 years, at which time such Member's pro rate share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of payment. Such Members shall be paid their pro rata share of this Trust Fund on the date they attain 21 years of age unless they elect in writing to leave their pro rata share in the Trust Fund, in which case such share shall not be distributed.

13.8.5.2 The pro rata share of such Members who elect not to withdraw their payment from this Trust Fund shall be managed, invested and administered, together with the funds of members who have not attained the age of 21 years on the date the final base membership roll is published, until such Member requests in writing that their pro rata share be distributed, at which time such Member's pro rata share shall be paid, together with the net income of the Trust Fund allocable to such Member's share as of the date of distribution.

13.8.5.3 No Member may elect to have their pro rata share retained and managed by this Trust beyond the expiration of 21 years after the date of publication of the final base membership roll.

13.8.6 After payments have been made to all Members entitled to receive payments, this Trust Fund shall terminate, and any balance remaining in this Trust Fund shall be merged into the Economic Development Trust Fund, the Education Trust Fund, or the Social Services and Elderly Assistance Trust Fund, as the Tribe may determine.

13.9. *Duration Of Trust Funds.* Subject to the provisions of this section and with the exception of the Catawba per Capita Payment Trust Fund, the Trust Funds established in accordance with this section shall continue in existence so long as the Tribe exists and is recognized by the United States. The principal of these Trust Funds shall not be invaded or distributed except as expressly authorized in the Federal Implementing legislation or in the Agreement.

13.10 *Transfer Of Money Among Trust Funds.* The Tribe, in consultation with the Secretary, shall have the authority to transfer principal and accumulated income between Trust Funds only as follows:

13.10.1 Funds may be transferred among the Catawba Economic Development Trust Fund, the Catawba Land Acquisition Trust Fund and the Catawba Social Services and Elderly Assistance Trust Fund, and from any of those three Trust Funds into the Catawba Education Trust Fund; except, that the mandatory share of State, local, and private sector funds invested in the original corpus of the Catawba Education Trust Fund shall not be transferred to any other Trust Fund.

13.10.2 Any Trust Fund, except for the Catawba Education Trust Fund, may be dissolved by a vote of two-thirds of those Members eligible to vote, and the assets in such Trust Fund shall be transferred to the remaining Trust Funds; except, that (A) no assets shall be transferred from any of the Trust Funds into the Catawba per Capita Payment Trust Fund, and (B) the mandatory share of State, local and private funds invested in the original corpus of the Catawba Education Trust Fund may not be transferred or used for any non-educational purposes.

13.10.3 The dissolution of any Trust Fund requires the approval of the Secretary pursuant to the Secretarial approval provisions set forth in §13.2.5.5 of this section.

13.11 *Trust Fund Accounting.*

13.11.1 The Secretary shall account to the Tribe periodically, and at least annually, for all Catawba Trust Funds being managed and administered by the Secretary. The accounting shall:

13.11.1.1 identify the assets in which the Trust Funds have been invested the relevant period;

13.11.1.2 report income earned during the period, distinguishing current income and capital gains;

13.11.1.3 indicate dates and amounts of distributions to the Tribe, separately distinguishing current income, accumulated income, and distributions of principal; and

13.11.1.4 identify any invasions or repayments of principal during the relevant period and record provisions the Tribe has made for repayment or restoration of principal.

13.11.2 Any outside investment management firm engaged by the Trade shall account to the Tribe and separately to the Secretary at periodic intervals, at least quarterly. Its accounting shall

13.11.2.1 identify the assets in which the Trust Funds have been invested during the relevant period;

13.11.2.2 report income earned during the period, separating current income and capital gains;

13.11.2.3 indicate dates and amounts of distributions to the Tribe, distinguishing current income, accumulated income, and distributions of principal; and

13.11.2.4 identify any invasions repayments of principal during the relevant period and record provisions the Tribe has made for repayment or restoration of principal.

13.11.3 Prior to distributing principal from any Trust Fund, the investment management firm shall notify the Secretary of the proposed distribution and the Tribe's proposed use of such funds, following procedures to be agreed upon by the investment management firm, the Secretary, and the Tribe. The Secretary shall have 15 days within which to object in writing to any such invasion of principal. Failure to object will be deemed approval of the distribution.

13.11.4 All Trust Funds held and managed by any investment management firm shall be audited annually by a certified public accounting firm approved by the Secretary, and a copy of the annual audit shall be submitted to the Tribe and to the Secretary within four months following the close of the Trust Funds' fiscal year.

13.12 *Replacement of Investment Management Firm and Modification of Investment Management Plan.* The Tribe shall not replace the investment management firm approved by the Secretary without prior written notification to the Secretary and approval by the Secretary of any investment management firm chosen by the Tribe as a replacement. Such Secretarial approval shall be given or denied in accordance with the Secretarial approval provisions contained in §§13.2.5.4.2 and 13.2.5.4.3. The Tribe and its investment management firm shall also notify the Secretary in writing of any revisions in the investment management plan which materially increase investment risk or significantly change the investment management plan, or the agreement, made in consultation with the secretary pursuant to which the outside management firm was retained.

13.13 *Trust Funds Not Counted for Certain Purposes; Use as Matching Funds.* None of the funds, assets, income, payments, or distributions from the trust funds established pursuant to this section shall at any time affect the eligibility of the Tribe or its Members for, or be used as a basis for denying or reducing funds to the Tribe or its Members under any Federal, State, or local program. Distributions from these Trust Funds may be used as matching funds, where appropriate, for Federal grants or loans.

14. *Establishment of expanded Reservation.*

14.1 *Existing Reservation.* The State currently holds in trust approximately 630 acres of land which is referred to in this Agreement as the "existing reservation." Upon final enactment of all implementing legislation, the State shall convey the existing reservation to the United States of America as

trustee for the Tribe, and the obligation of the State as trustee for the Tribe with respect to this land shall cease.

14.2 *Expanded Reservation.*

14.2.1 Within 180 days from enactment of the implementing legislation, the Secretary, after consultation with the Tribe, shall ascertain the boundaries and area of the existing reservation. In addition, the Secretary, after consulting with the Tribe, shall engage a professional land planning firm as provided in this Agreement. The Secretary shall bear the cost of all services rendered pursuant to this section.

14.2.2 With the assistance of the Secretary or the planning firm, the Tribe may canvass land owners in the Primary Expansion Zone to identify additional tracts that the Tribe may be able to acquire. The Tribe, with the assistance of the planning firm, will determine the scope of its canvass, based on those tracts it wants to acquire and those landowners it considers likely to sell.

14.2.3 Upon final enactment of all implementing legislation the Tribe, or the Secretary may purchase and place in Reservation status only those tracts of lands that are bounded by the existing reservation, or bounded by a tract that has been acquired as part of the expanded reservation and placed in reservation status. Prior to final approval of its Non-Contiguous Development Plan application as described below, the Tribe may obtain options upon and purchase noncontiguous (or "outlying") tracts of land not bounded by the existing or expanded reservation, but no such noncontiguous tract shall be eligible to be placed in reservation status until the Tribe's application for a Non-Contiguous Development Plan has been approved. In assembling tracts, contiguity will not be deemed broken by state or federal roads or by public rights of way; and lands on the eastern bank of the Catawba River opposite the Reservation shall be considered contiguous to the Reservation if the western boundary of any such tract joins the eastern boundary of the Reservation when the boundaries of both are extended to the middle of the river. Tracts acquired for the expanded reservation shall not deny access to lands owned by nonmembers of the Tribe.

14.2.4 When a parcel that can be purchased has been identified and the price has been negotiated, a description of the property and its price, together with other pertinent information and the terms of purchase, shall be presented to the Tribe. If the Tribe approves the purchase, the Secretary or the Tribe may proceed with closing after completion of a title examination, a preliminary subsurface soil investigation, and a level one environmental audit. The Secretary shall bear the cost of all such examinations by the Tribe. Payment of any option fee and the purchase price may, at the Tribe's election, be drawn from the Tribe's Land Acquisition Trust Fund.

14.2.5 The total area of the expanded reservation will be limited to 3,000 acres, including the existing reservation, but the Tribe may exclude from this limit up to 600 acres of additional land if such land is (i) within rights-of-way for public roads or public utilities rendered unusable for development by the easement or right-of-way; (ii) within the 100-year flood plainof the Catawba River as defined by the Federal Emergency Management Agency, or its successor; (iii) non-developable wetland defined or restricted by law or regulation such that buildings, structures, and other improvements are prohibited; and (iv) park and recreational land accessible to the public and dedicated permanently to public use. After completion of a comprehensive development plan, the Tribe may seek to have the permissible area of the expanded reservation enlarged to a maximum of 3,600 acres, plus up to 600 acres of land as described in (i) through (iv) above. Any such expansion shall be first approved, however, by ordinance of the county council governing any area where the additional lands are to be acquired, and by a law or joint resolution enacted by the General Assembly signed by the Governor of South Carolina. Following such approval, the Tribe may, if it has not previously done so, acquire such additional lands. Thereafter the Tribe may request the Secretary to hold such lands in trust. Upon request by the Tribe that such additional lands acquired by the Tribe be taken into trust, the Secretary may take such lands into trust and, if he does so, shall hold the same, together with the existing reservation which the State is to convey to the United States, in trust for the Tribe.

14.2.6 The Tribe in consultation with the Secretary, shall make every reasonable effort to expand the existing reservation by assembling a composite tract of contiguous parcels that border and surround the existing Reservation. Before requesting that any noncontiguous land be held in reservation status, the Tribe shall submit to the county council in any county where it proposes that any noncontiguous tracts be placed in reservation status a Non-Contiguous Development Plan Application ("Application"), which shall include the following:

14.2.6.1 A statement of the Tribe's needs, objectives, and priorities for its Reservation, including planning goals for (1) single and multifamily residential units; (2) recreational amenities; (3) historical sites to be preserved; (3) business and industrial parks; (4) common areas, parks, and open space; (5) roads, streets, utilities, and tribal government and community facilities.

14.2.6.2 An acquisition and land-use plan, based on the Tribe's planning goals and objectives, showing tracts, both contiguous to the Reservation and not contiguous, which the Tribe has acquired or optioned, and identifying where reasonably possible those areas that the Tribe seeks to acquire tracts to place in reservation status, in either the Primary or Secondary Expansion Zones. The acquisition and land-use plan need not be location-specific as to all uses, but should show the expanded reservation as then configured and should designate existing uses, roads, and topographical features including flood plain. Prior to submitting the acquisition and land-use plan to the county council in the county where the Tribe seeks to acquire noncontiguous tracts for reservation status, the Tribe will review the plan with county planning authorities. To avoid speculation in land prices, examination of the Tribe's future land use plans may be restricted by the Tribe to appropriate state and local officials, and these officials will be bound to protect confidential aspects of the plans. The acquisition and land-use plan should endeavor to meet the following guidelines: (i) the plan should attempt to cluster the noncontiguous parcels within the Primary Expansion Zone so that each is located as close as possible to the expanded reservation; (ii) the plan should endeavor to locate all noncontiguous parcels within the Primary Expansion Zone, and confine the number of outlying parcels in all Expansion Zones to three with no more than two in any one Zone; (iii) the plan should seek to assemble only noncontiguous parcels of significant size, using 250 acres as the criterion for a minimum desirable area; (iv) the plan should undertake to show that the outlying parcels will be used for purposes which are compatible with desired existing uses of the surrounding property; (v) the plan should follow generally accepted standards of good land-use planning, providing for the mitigation of environmental impacts and incompatible land uses, and providing traffic and utility planning, building setbacks and density; (vi) the plan for acquiring noncontiguous tracts should avoid the selection of sites or configurations that could leave fragments of unusable land or create hardship for owners of adjoining parcels.

14.2.6.3 The Tribe shall prepare a report of the Tribe's and the Secretary's efforts, acting on behalf of the Tribe, to acquire contiguous tracts at fair market value, showing why it is not possible, practical, or advisable to assemble contiguous parcels into a composite tract, as provided in this Section, and including a certificate to this effect. The Tribe's report will include relevant data on tracts that the Tribe or the Secretary has sought but failed to purchase because of price, terms, or the seller's refusal.

14.2.6.4 Criteria controlling the Tribe's selection of outlying tracts that the Tribe will seek to purchase, provided its Application is finally approved; shall include (i) the minimum area of tracts to be acquired, (ii) the location of outlying tracts in relation to the expanded and the maximum distance between outlying tracts and the nearest boundary of the expanded reservation, (iii) the number of outlying tracts the Tribe intends to acquire in each Zone, (iv) an identification of outlying tracts already owned or under option or targeted for acquisition if the application is finally approved, (v) provisions for assuring that proposed uses of tracts to be acquired are compatible with existing uses of surrounding property and will not interfere with essential public services, and (vi) a means of assuring that noncontiguous tracts can be marked and readily identified as reservation property.

14.2.7 The Tribe shall present its Application to the county council of each county in which the Tribe proposes to purchase noncontiguous tracts to be placed in reservation status. The county council shall make findings on the extent to which the Application has met the criteria set forth in §14.2.6, and recommend to the Governor whether or not the Application should be approved. After receiving the county council's recommendation, the Tribe either may modify its Application and re-submit it to the county council, or present it to the Governor for approval. The Governor shall review the Application and decide whether to approve or disapprove it on the basis of the criteria set forth above. Neither the county council's approval nor the Governor's approval shall unreasonably be withheld, and the Governor's final action shall be subject to review under the Administrative Procedure Act.

14.2.8 Upon approval by the Governor of the Tribe's Non-Contiguous Development Plan Application, the Tribe may request that the Secretary take such noncontiguous tracts in reservation status, in accordance with the Plan and the provisions of this Agreement, and the Secretary, in consultation with the Tribe, shall proceed to place noncontiguous tracts in reservation status.

14.3 *Primary Expansion Zone.* The Tribe shall endeavor at the outset to acquire contiguous tracts for the expanded in the area referred to in this Agreement as the "Primary Expansion Zone." The Primary Expansion Zone shall lie within the area bounded by S.C. Highway No. 5 on the south running

northwesterly to its intersection with Springdale Road on the west and thence northeasterly to the Catawba River along Sturgis Road; thence east along the Catawba River to its confluence with Sugar Creek; north along Sugar Creek to its intersection with S.C. Highway No. S-29-41 (Doby Bridge Road); thence with S.C. Highway S-29-41 to its intersection with U.S. Highway No. 521; thence with U.S. Highway No. 521 in a southerly direction to its intersection with S.C. Highway No. S-29-55 (Van Wyck Road) on the east; and thence with S.C. Highway No. S-29-55 to its intersection with Twelve Mile Creek on the south; and thence with Twelve Mile Creek to S.C. Highway No. 5 on the south. This entire area will be known as the "Catawba Reservation Primary Expansion Zone."

14.4 *Secondary Expansion Zone.* The Tribe, may elect to purchase contiguous tracts in an alternative area described in this Agreement as the Secondary Expansion Zone, under the approval provisions set out in §14.2.6 above. The Secondary Expansion Zone shall consist of the area bounded by Sugar Creek on the west; the Catawba River on the south extending to the Norfolk Southern Railway trestle on the west; thence northerly with the railroad right-of-way to its intersection with S.C. S-46-329 (Brickyard Road); thence east to S.C. S-46-41 (Doby Bridge Road); thence easterly along S.C. S-46-41 to its intersection with Sugar Creek. This area shall be known as the "Catawba Reservation Secondary Expansion Zone."

14.5 *Other Expansion Zone.* The Primary and Secondary Expansion Zones are the preferred and only approved zones for expansion of the Reservation. However, after completing a comprehensive plan of development, the Tribe may propose different or additional expansion zones; but any such zone first must be approved by ordinance of the county council where the zone is located, and by law or joint resolution enacted by the General Assembly of South Carolina and signed by the Governor. The combined area of all land acquisitions, including land in any specially approved zones, shall not exceed the limits imposed by §14.2.5.

14.6 *Future Highways.* Prior to the Tribes' planning process, the South Carolina Department of Highways and Public Transportation will consult with the Tribe about planned and proposed major highways within the Primary and Secondary Expansion Zones, including the proposed extension of Dave Lyle Boulevard (South Carolina Highway No. 122) from the City of Rock Hill across the Catawba River into Lancaster County. In accordance with the letter to the Tribe from the City of Rock Hill, dated August 28, 1992, the City of Rock Hill and the South Carolina Department of Highways and Public Transportation will consult the Tribe about access to Dave Lyle Boulevard Extension, and in cooperation with the Tribe, will plan and provide for an interchange assuring access to Dave Lyle Boulevard Extension over a public road in reasonable proximity to the expanded reservation.

14.7 Future Sewage Treatment Facilities. Prior to the Tribe's planning process, the South Carolina Department of Health and Environmental Control (DHEC) will consult with the Tribe about the location of future sewage treatment facilities that may serve the Primary and Secondary Expansion Zones. Such treatment facilities include, but are not limited to, the treatment plant proposed by the Charlotte-Mecklenburg Utilities Department near the confluence of the Catawba River and Twelve Mile Creek in Lancaster County and all pump stations and transmission lines, gravity and pressure. If this or a similar regional treatment plant is constructed here or in the vicinity of this site, DHEC will endeavor to ensure that the commitments of the City of Rock Hill, set forth in its letter to the Tribe dated August 28, 1992, are carried out (i) by locating the City's sewage transmission line to the regional treatment plant in reasonable proximity to the Reservation and (ii) by allowing the Tribe the right to access to such transmission line for a tap fee and on other terms similar to those for municipalities using this treatment facility. The Tribe will be responsible for the design, construction, operation, and maintenance of its own sewage collection system and for the cost of constructing any extension line and tap to the transmission line. The Tribe will also be subject to fees for use of the treatment system and transmission line, and subject to all regulations imposed on users of the system, but DHEC will endeavor to ensure that such fees, charges, and rules are the same as applied to municipal users of the system. If the Tribe is required to construct an extension line to connect with a transmission line the Tribe may charge non-reservation users along such extension line reasonable tap and user fees.

14.8 *Voluntary Land Purchases.* The power of eminent domain shall not be used by the Secretary or any governmental authority in acquiring parcels of land for the benefit of the Tribe, whether or not the parcels are to be part of the Reservation. All such purchases shall be made only from willing sellers by voluntary conveyances. Conveyances by private land owners to the Tribe or the Secretary for the expanded reservation will be deemed, however, to be involuntary conversions within the meaning of Section 1033 of the Internal Revenue Code of 1986, as amended. Filing and recording fees and all documentary tax stamps and any other fees incident to the conveyance of real estate will be payable in connection with such purchases regardless of whether the property is purchased by the Tribe or by the United States in trust for the Tribe. Real property taxes levied for the year of closing will be prorated and paid at closing, or if the amount of property taxes to be due cannot then be calculated, property taxes will be estimated and escrowed at closing. Notwithstanding the provisions of Section 257 and 258a of Title 40, the Secretary may acquire a less than complete interest in land otherwise qualifying under Section 14 for treatment as Reservation land for the benefit of the Tribe from the ostensible owner of the land if the Secretary and the ostensible owner have agreed upon the identity of the land to be sold and upon the purchase price and other terms of sale. If the ostensible owner agrees to the sale, the Secretary may use condemnation proceedings to perfect or clear title and to acquire any interests of putative covenants whose address is unknown or the interests of unknown or unborn heirs or persons subject to mental disability.

14.9 *Rollback Taxes.* The purchase of any land specially assessed as farmland or timberland by York or Lancaster County will not result in a rollback of property taxes provided the property is placed by the Tribe in reservation status within one year of the date of purchase. If any specially assessed land is acquired and not made part of the Reservation within one year, deferred or rollback taxes will be due and payable without interest to the county treasurer.

14.10 *Terms and Conditions of Acquisition.* Subject to the provisions of this Section, the Tribe or the Secretary will be authorized to: (i) ascertain the market value of lands to be purchased; to enter into options and contracts for reservation and non-reservation lands upon such conditions as they deem appropriate; (ii) to acquire, when necessary, the reversionary fee in leases and the remainder fee in life estates; (iii) to acquire lands subject to leases and timber interests and subject to easements, covenants, and restrictions that will not impair usefulness of the lands for the Tribe's purposes. The Tribe or the Secretary, acting in behalf of the Tribe and with its consent, and subject to the provisions of this section, is also authorized to execute and delivery purchase-money notes, mortgages, and other debt and security instruments, to acquire both reservation and non-reservation lands. When property is acquired for the Tribe through purchase-money financing, and encumbered by a purchase-money mortgage, the mortgagee shall have the right to foreclose under South Carolina law in the event of default as defined in the note and mortgage.

14.11 *Easements Over Reservation.* The acquisition of lands for the expanded reservation shall not extinguish any easements or rights-of-way then encumbering such lands unless the Secretary or the Tribe enters into a written agreement with the owners terminating such easements or rights-of-way. The Secretary, with the approval of the Tribe, shall have the power to grant or convey easements and rights-of-way for public roads, public utilities, and other public purposes over the Reservation. Unless the Tribe and the State agree upon a valuation formula for pricing easements over the Reservation, the Secretary shall be subject to proceedings for condemnation and eminent domain to acquire easements and rights of way for public purposes through the Reservation under the laws of the State of South Carolina in circumstances where no other reasonable access is available. With the approval of the Tribe, the Secretary may also grant easements or rights-of-way over the Reservation for private purposes; and implied easements of necessity shall apply to all lands acquired by the Tribe, unless expressly excluded by the parties.

14.12 *Jurisdictional Status.* Only land made part of the Reservation shall be governed by the special jurisdictional provisions set forth in this Agreement.

14.13 *Sale and Transfer of Reservation Lands.* At the request of the Tribe, and with the approval of the Secretary, the Secretary may sell, exchange, or lease lands within the Reservation, or sell timber or other natural resources on the Reservation. The proceeds from these transactions may be used to reinvest in other land contiguous to the Reservation or in improvements for the common use of the Tribe on the Reservation; or if the Tribe deems it appropriate, the proceeds may be placed in the Education Trust Fund, the Elderly Assistance Trust Fund, the Land Acquisition Trust Fund, or the Economic Development Trust Fund. At the request of the Tribe and with the approval of the Secretary, the Secretary may exchange like-kind parcels of land on the Reservation for contiguous parcels of land not currently part of the Reservation. Notwithstanding the provisions of this section, the area of the Reservation shall not exceed the limits imposed by §14.2.5.

14.14 *Time Limit on Acquisitions.* All acquisitions of contiguous land to expand the Reservation or of noncontiguous lands to be placed in reservation status shall be completed or under contract of purchase within

ten years from the date the last payment is made into the Land Acquisition Trust; except, however, that the Tribe may continue to acquire parcels which are contiguous to either of two designated reservation areas for a period of twenty years after the date the last payment is made into the Land Acquisition Trust.

14.15 *Leases of Reservation Lands.* The provisions of 25 U.S.C. §415 shall not apply to the Tribe and its Reservation. The Tribe shall be authorized to lease its Reservation lands for terms up to but not exceeding ninety-nine (99) years, with or without the approval of the Secretary. With regard to any lease of Reservation lands not approved by the Secretary, the Secretaryshall be exculpated by the Tribe from any liability arising out of any loss incurred by the Tribe as a result of the unapproved lease.

14.16 *Non-Applicability of BIA Land Acquisition Regulations.* The general land acquisition regulations of the Bureau of Indian Affairs, currently contained in 25 C.F.R. Part 151, shall not apply to the acquisition of lands authorized by Section 14 of this Agreement.

15. *Non-Reservation Properties.*

15.1 *Acquisition of Non-Reservation Properties.* The Tribe may draw upon the corpus or accumulated income of the Land Acquisition Trust or the Economic Development Trust to acquire parcels of real estate outside the Reservation, including properties ancestral or historic to the Tribe and properties to be held by the Tribe for investment or development. Any Non-Reservation properties shall be held in fee simple by the Tribe as a corporate entity or by a subentity of the Tribe and will not be part of the Reservation, or governed by the special jurisdictional provisions set forth in this Agreement, or subject to any other special attributes on account of their ownership by the Tribe as a corporate entity, except as provided in §15.2. Notwithstanding any other provisions of law, the Tribe may lease, sell, mortgage, restrict, encumber, or otherwise dispose of such non-reservation lands in the same manner as other persons and entities under State law; and the Tribe as land owner shall be subject to the same obligations and responsibilities as other persons and entities under State, federal, and local law, including local zoning and land use laws and regulations. Ownership and transfer of non-reservation parcels shall not be subject to federal law restrictions on alienation, including, but not limited to, the restrictions imposed by federal common law and the provisions of the Trade and Intercourse Act of 1790, Act of July 22, 1790, and all amendments thereto.

15.2 *Jurisdiction on Non-Reservation Properties.* The laws, ordinances, taxes, and regulations of the State and its subdivisions shall apply to such non-reservation properties in the same manner as such laws, ordinances, taxes, and regulations would apply to any other properties held by non-Indians located in the same jurisdiction, except as provided in South Carolina Code of Laws, §27–16–110. However, non-reservation land shall be eligible for federal grants and other federal services for the benefit of Indians or Indian tribes, and for such purposes shall be treated as if it were designated as reservation land or land held in trust by the United States.

16. *Games of Chance.*

16.1 *Inapplicability of Indian Gaming Regulatory Act.* The Indian Gaming Regulatory Act, 25 U.S.C. §2701, et seq., shall not apply to the Tribe. This Agreement, and the implementing legislation passed pursuant to this Agreement, and all laws, ordinances, and regulations of the State of South Carolina, and its political subdivisions, shall govern the regulation of gambling devices and the conduct of gambling or wagering by the Tribe on and off the Reservation, except as specifically provided in this section.

16.2 *Conduct of Gambling or Wager by the Tribe on and off the Reservation.* Except as specifically provided in the Federal Implementing legislation and this Agreement, all laws, ordinances, and regulations of South Carolina and its political subdivisions govern the conduct of gambling or wager by the Tribe on and off the Reservation.

16.3 The State shall govern the conduct of bingo under Article 23, Chapter 21 of Title 12, Regulation of Bingo Games, including regulations or rulings issued in relation to that article, except as provided by the special bingo license to which the Tribe is entitled in accordance with this section if it elects to sponsor bingo games under the special license.

16.3.1 For purposes of conducting the game of bingo, the Tribe is deemed a nonprofit organization under Article 23, Chapter 21 of Title 12 of the S.C. Code.

16.3.2 If the Tribe elects to conduct the game of bingo either on or off the Reservation, the Tribe shall obtain a license from the South Carolina Tax Commission. Based on the Tribe's election, the Tribe may be licensed by the South Carolina Tax Commission to conduct games of bingo under a regular license allowed nonprofit organizations or under the special license provided by this section.

16.4 The Tribe may apply to the South Carolina Tax Commission for a special bingo license in lieu of licenses authorized by Article 23, Chapter 21 of Title 12 of the S.C. Code. A special or regular license must be granted if the Tribe complies with the licensing requirements and procedures. The special license is identical in all respects to the class of license permitting the highest level of prizes allowed by law and carries the same privileges and duties as the class of license permitting the highest level of prizes provided by law, except:

16.4.1 The frequency of the sessions must be determined by the Tribe but must be no more frequent than six sessions a week, with sessions on Sundays prohibited unless state law otherwise expressly allows Sunday sessions.

16.4.2 The amount of prizes offered each session must be determined by the Tribe, but must not be greater than one hundred thousand dollars for any game.

16.4.3 The Tribe shall pay, in lieu of an admission, a head, a license, or any other bingo tax, a special bingo tax equal to ten percent of the gross proceeds received during each session. No other federal, state, or local taxes apply to the revenues generated by the bingo games operated by the Tribe. All revenues derived from the special bingo tax must be collected by the South Carolina Tax Commission and deposited with the State Treasurer for the benefit of the General Fund of South Carolina.

16.4.4 At least fifty percent of the gross proceeds received by the Tribe during a calendar quarter must be returned to the players in the form of prizes. For purposes of this section, "gross proceeds" does not include the ten percent special bingo tax.

16.4.5 The Tribe is entitled to two bingo licenses, and these licenses may be used to operate at two locations only. They are not assignable to any other entity or individual.

16.4.6 The net proceeds derived by the Tribe from the conduct of bingo may be used for any purpose authorized by the Tribe.

16.5 The Tribe may elect to operate one of the games under a special bingo license off the Reservation and not within the one hundred forty-four thousand acre Catawba Claim Area, but before doing so, it first must obtain the approval of the governing authority of the county and any municipality in which it seeks to locate the facility. If the Tribe elects to operate one or both of the games off the Reservation but within the one hundred forty-four thousand acre Catawba Claim Area, it shall do so in an area zoned compatibly for commercial activities after consulting with the municipality or county where a facility is to be located.

16.6 The sponsor and promoter of the bingo games must be the Catawba Indian Tribe, and all profits gained from the enterprise accrue to the Tribe. The South Carolina Tax Commission, or its regulatory successor, has the power to administer, oversee, and regulate all bingo games sponsored and conducted by the Tribe, audit and enforce the operation of the games, and assess and collect taxes, interest, and penalties in accordance with the laws and regulations of the State as they apply to the Tribe. The South Carolina Tax Commission, or its regulatory successor, has the right to suspend or revoke the Tribe's bingo license or special bingo license if the tribe violates the law with regard to conducting the game. However, the Tax Commission, or its regulatory successor, first shall notify the Tribe of violations and provide the Tribe with an opportunity to correct the violations before its license may be revoked. Failure to pay bingo taxes, interest, or penalties may be grounds for license revocation.

16.7 A license of the Tribe to conduct bingo must be revoked if the game of bingo is no longer licensed by the State. If the State resumes licensing the game of bingo, the Tribe's license or special license must be reinstated if the Tribe complies with all licensing requirements and procedures.

16.8 The Tribe may permit on its Reservation video poker or similar electronic play devices to the same extent that the devices are authorized by State law. The Tribe is subject to all taxes, license requirements, regulations, and fees governing electronic play devices provided by state law, except if the reservation is located in a county or counties which prohibit the devices pursuant to state law, the Tribe nonetheless must be permitted to operate the devices on the Reservation if the governing body of the Tribe so authorizes, subject to all taxes, license requirements, regulations, and fees governing electronic play devices provided by state law.

16.9 If the Tribe elects to sponsor and conduct games of bingo under a regular license allowed nonprofit organizations under Article 23, Chapter 21 of Title 12 of the Code of S.C., the Tribe must be taxed as a nonprofit corporation under that article.

17. *Governance and Regulation of Reservation.*

17.1 *Building Code.* The Tribe shall incorporate by reference and adopt the York County Building Code, and any amendments thereto hereafter adopted, and may contract with York County, South Carolina for the services necessary to enforce, inspect, and regulate compliance with its Building Code. Such services shall be provided at no charge by York County as an in-kind contribution toward settlement. In addition, those local jurisdictions which exact any fee, permit, or inspection services shall waive the fees otherwise charged for building permit or inspection services on the Reservation. The Tribe

shall be empowered, but not required, to adopt building code provisions to be applied on the Reservation in addition to, but not in derogation of, the York County Building Code, as amended from time to time.

17.2 *Environmental Laws.* All federal, state, and local environmental laws and regulations shall apply to the Tribe and to the Reservation, and shall be fully enforceable by all relevant federal, state, and local agencies and authorities. Similarly, all requirements that a license, permit, or certificate be obtained from any federal, state, or local agency shall also apply to the tribe and to the Reservation. This provision shall include all such laws and regulations now in effect and all amendments adopted hereafter. This provision shall extend without limitation to all environmental laws and regulations adopted in the future. The Tribe, the Executive Committee, and all members of the Tribe shall have the same status under all such laws as other citizens or groups of citizens to contest, object to, or intervene in any proceeding or action in which environmental regulations are being made, adjudicated, or enforced, or in which licenses, permits, or certificates of convenience and necessity are being issues by any agency of federal, state, or local government. Notwithstanding any other provisions of law now or hereafter adopted, the Tribe shall not have special or preferential status in any such action or proceeding, or rights, privileges, or standing any greater than the rights, privileges, and standing allowed other citizens or citizen organizations. The Tribe shall have the authority to impose regulations applying higher environmental standards to the Reservation than those imposed by federal or state law or by local governing bodies; but such tribal regulations shall apply only to the Reservation, and not to property surrounding the Reservation or non-reservation property, or to the use of the Catawba River. Such tribal regulations shall also not apply to activities or uses off the Reservation, even if those activities affect air quality on the Reservation. The Tribe shall not be authorized to invoke sovereign immunity against any suit, proceeding, or environmental enforcement action involving any federal, state, or local environmental laws or regulations, and shall be subject to all enforcement orders, restraining orders, fees, fines, injunctions, judgments and other corrective or remedial measures imposed by such laws. Provided, however, it is not the intent of the parties that the Tribe, or the Secretary when acting on behalf of the Tribe, be required to comply with duplicative federal laws and regulations that would not apply to Tribal or Secretarial actions if these actions were taken instead by a private corporation; and, recognizing that this provision may be insufficient to insure fulfillment of this intention, it is also the intent of the parties to use, if necessary, the provisions of §15(f) of the Federal Implementing legislation to draft a provision sufficient to fulfill the parties' intention in this regard.

17.3 *Planning and Zoning.* With respect to any land use regulation within the Reservation, the Tribe shall have the power to adopt and enforce any land use plan after consultation with York County and Lancaster County, for those parts of the Reservation located in those respective jurisdictions. The Tribe and the affected governing bodies shall follow the consultative procedures created for settlement of the claim of the Puyallup Tribe in the State of Washington, as set out in House Report 101–57, pages 161–64. In determining whether to permit the construction of any buildings or improvements on the Reservation, the Tribe shall consider (1) the protection of established or planned residential areas from any use or development that would adversely affect residential living off the Reservation: (2) protection of the health, safety, and welfare of the surrounding community; and (3) preservation of open spaces, rivers, and streams, and provision of public facilities to support development.

17.4 *Health Codes.* All public health codes of the State of South Carolina and any county in which the Reservation is located shall be applicable on the Reservation.

17.5 *Hunting and Fishing.* Hunting and fishing, on or off the Reservation, shall be conducted in compliance with the laws and regulations of the State of South Carolina. Members of the Tribe shall be subject to all state and local regulations governing hunting and fishing both on and off the Reservation, except, however, during the period established by §3.2 of this Agreement members of the Tribe shall be entitled to personal state hunting and fishing licenses without payment of fees. However, the Tribe and its members shall be subject to the same fees and requirements as all other citizens of the State in applying for and obtaining commercial hunting and fishing licenses. The Tribe shall have the authority to impose hunting, fishing, and wildlife rules and regulations on the Reservation that are stricter than those adopted by the State.

17.6 *Riparian Rights.* The littoral and riparian rights of the Catawba Indian Tribe in the Catawba River, or in any other streams or waters crossing their lands, shall not differ in any respect from the rights of other owners whose land abuts non-tidal bodies of water or non-tidal water coursed in South Carolina. The right and obligations covered by this provision shall include but not be limited to: (i) the title to the river bed; (ii) the right to flood, pond, dam, and divert waters of the river or its tributaries; (iii) the right to build docks and piers in the river; (iv) the right to fish in the river or its tributaries; and (v) the right to discharge waste or withdraw water from the river or its tributaries. The Reservation is located on the Catawba River between two hydroelectric reservoirs licensed by the Federal Energy Regulatory Commission ("FERC"). The Tribe shall have the same rights and standing as all other riparian owners and users of the Catawba River to intervene in any proceeding or otherwise to contest or object to proposed actions or determinations of FERC or of any other governmental agency, commission, or court, whether federal, state, or local, with respect to the use of the Catawba River and its basin, including without limitation, with drawl of water from the river; navigability on the river; and water power and hydroelectric usage of the river. Notwithstanding any other provisions of law effective now or hereafter adopted, the Tribe will have no special right or preferential standing greater than other riparian owners and users of the Catawba River to intervene in or contest any such agency action, determination, or proceeding, including specifically any action, or determinations by FERC regarding the licensing, use, or operation of the waters impounded by the existing reservoirs above and below the Reservation.

These qualifications shall apply to the existing reservation, to lands acquired for the expanded reservation, to any other lands acquired by or for the benefit of the Tribe, and to non-reservation lands.

17.7 *Alcoholic Beverages.* Alcohol shall be prohibited on the Reservation unless the Tribe adopts laws permitting the sale, possession, or consumption of alcohol on the Reservation. In such case, the Tribe shall adopt laws or ordinances that incorporate all state standards and regulations regarding hours, sales to minors, employment, consumption, possession, and standards for licensing; except, however, that the Tribe may impose stricter standards and regulations than those prescribed by state law. If beer, wine, and liquor are sold on the Reservation, licenses must be issued by the State in accordance with South Carolina law; and all beer, wine, and liquor taxes will be paid to the State in accordance with South Carolina law.

18. *Taxation.*

18.1 *Indian Tribal Government Tax Status Act.* The Indian Tribal Government Tax Status Act, 26 U.S.C. §7871, shall apply to the Tribe and its Reservation. In no event, however, may the Tribe pledge or hypothecate the income or principal of the Education or Social Services and Elderly Trust Funds or otherwise use them as security or a source of payment for bonds the Tribe may issue.

18.2 *General Tax Liability.* The Tribe, its members, the Tribal Trust Funds, and any other persons or entities affiliated with or owned by the Tribe, members of the Tribe, or theTribal Trust Funds, whether resident, located, or doing business on the Reservation or off the Reservation, shall be subject to all federal, state, and local income taxes, sales taxes, real and personal property taxes, excise taxes, estate taxes, and all other taxes, licenses, levies, and fees, except as expressly provided in this Agreement. Any other person or business entity which locates, operates, or does business on the Reservation shall be subject without exception to all federal, state, and local taxes, licenses, and fees, unless otherwise expressly provided in this Agreement. To the extent that the Tribe may be subject to any taxes under this section, the Tribe shall be taxed as if it were a business corporation incorporated under the laws of South Carolina unless otherwise expressly provided.

18.3 *Bingo Taxes.* If the Tribe elects to sponsor and conduct games of bingo under the provisions of Section 16 of this Agreement, the gross revenues generated by such bingo games will be subject to the 10% tax levy specified in Section 16 exclusively, and no other federal, state or local taxes shall apply to revenues generated by the bingo games which are received by the Tribe. If the Tribe elects to sponsor and conduct games of bingo under a regular license allowed nonprofit organizations under the Bingo Act, the Tribe will be taxed as a nonprofit corporation under the Bingo Act with respect to all revenues generated from the bingo games.

18.4 *Income Taxes.*

18.4.1 *The Tribe and Tribal Trust Funds.* Income of the Tribe, subdivisions and agencies of the Tribe, including entities owned by the Tribe or the Federal Government and the Tribal Trust Funds, and tax revenues collected by the Tribe by levy or assessment, shall be nontaxable for federal income tax purposes to the extent provided by federal law for recognized or restored Indian Tribes. Any tribal income and tax revenues which are nontaxable for federal income tax purposes because of the Tribe's status as a recognized or restored Indian Tribe shall also be nontaxable for purposes of any state and local taxes on income.

18.4.2 *Members of Tribe.* Members of the Tribe shall be liable for payment of federal, state and local income taxes to the same extent as any other person in the state, except

that income earned by members of the Tribe for work performing governmental functions solely on the Reservation shall be exempt from state taxes during the period established by §3.2 of this Agreement, and income earned by members of the Tribe from the sale of Catawba Indian pottery and artifacts, whether on or off the Reservation, which are made by members of the Tribe, shall be exempt from state, federal, and local income taxes. For purposes of federal income taxes, the income of members earned on the Reservation shall be taxable to the extent provided by federal law for members of recognized or restored Indian tribes. No funds distribute per capita pursuant to §13.7 shall be subject at the time of distribution to federal, state or local income taxes; however, income subsequently earned on shares distributed to members of the Tribe shall be subject to the same federal, state, and local income taxes as other persons in the state would pay. Compensation paid to Executive Committee members shall be subject to federal payroll taxes to the extent provided by Federal law for members of tribal councils of recognized or restored Indian tribes.

18.4.3 *Taxation of Others on the Reservation.* Any person or other entity which is not exempt from income taxes under §18.4.1 or 18.4.2 shall be liable for all federal, state, and local income taxes otherwise due regardless of whether or not they are doing business on the Reservation.

18.5 *Real Property Taxes.*

18.5.1 *Exemption of Tribal Real Property.* All lands held in trust by the United States for the Tribe as part of the Reservation shall be exempt from all property taxes levied by the State or by any county and school district or special purpose district. All buildings, fixtures, and real property improvements owned by the Tribe or held in trust by the United States for the Tribe on the Reservation shall be exempt from all property taxes levied by the State or by any county and school district or special purpose district. If the Tribe owns a partial interest in property or a business, the property tax exemption provided in this section is applicable to the extent of the Tribe's interest.

18.5.2.1 *Exemption of Members' Real Property.* Single and multi-family residences, including mobile homes, that are situated on the Reservation shall be exempt from all property taxes levied by the State, or a county, a school district, or a special purpose district, if all of the following apply:

18.5.2.1.1 They are owned by the Tribe, members of the Tribe or Tribal Trust Funds, and

18.5.2.1.2 For single family residences, if they are occupied by members of the Tribe or the surviving spouse of a deceased member of the Tribe.

18.5.2.1.3 For multi-family residences, if:

18.5.2.1.3.1 If the property is valued on a per unit basis, those units which are occupied by a member of the Tribe or the surviving spouse of a deceased member or are unoccupied are exempt from property taxes. All other occupied units are subject to property taxes to the same extent that similar property is assessed and taxed elsewhere in the same jurisdiction. Occupancy is determined on the assessment date for the property;

18.5.2.1.3.2 If the property is not valued on a per unit basis, the property is exempt from property taxes based on the percentage of units which are occupied by a member of the Tribe or the surviving spouse of a deceased member of the Tribe, and the property is subject to property taxes to the same extent that similar property is assessed and taxed elsewhere in the same jurisdiction based on the percentage of units not so occupied. In calculating the value, unoccupied units must not be considered. Occupancy is determined on the assessment date for the property.

18.5.2.1.4 Rental property constructed by the Tribe on the Reservation through an Indian Housing Authority which is financed by HUD is exempt from all property taxes. In lieu of the taxes, the authority may agree to make payments to the county or a political subdivision for improvements, services, and facilities furnished by the county or political subdivision for the benefit of the housing project. However, the payments may not exceed the estimated cost to the county or political subdivision of the improvements, services, or facilities furnished.

18.5.2.2 For purposes of this section, residential property shall be deemed owned by a member of the Tribe if the member or the surviving spouse of a member owns at least a one-half undivided interest in the property; and property shall be deemed occupied by members of the Tribe if at least one member or the surviving spouse of a member is living in the single-family residence or in each unit of any multi-family residence.

18.5.3 *Taxation of Other Real Property.* All buildings, fixtures, and real property improvements located on the Reservation which are not exempt from real property taxes under sections 18.5.1 or 18.5.2 shall be subject to all property taxes levied by the State, county, and any school district or special purpose to the same extent that similar buildings, fixtures, or improvements are assessed and taxed elsewhere in the same jurisdiction. However, the underlying land or leasehold in the land will not be subject to real property taxes. All buildings fixtures, and improvements subject to real property taxes shall be eligible for any tax abatement or temporary exemption allowed new business investments to the same extent as similar properties qualify for exemption or abatement in the same county.

18.5.4 *Tribal Property Taxes.* The Tribe shall be authorized to levy taxes on buildings, fixtures,' improvements, and personal property located on the Reservation, even though such properties may be exempt from property taxation by the state or its subdivisions, and may use such tax revenues for appropriate tribal purposes. The Tribe may also exempt or abate any such taxes. York and Lancaster Counties and the South Carolina Tax Commission will provide the necessary assistance to the Tribe if the Tribe chooses to assess tribal real property taxes as if they were property taxes imposed by a political subdivision.

18.5.5 *Taxation of Non-Reservation Properties.* Real property and improvements owned by the Tribe or by members of the Tribe or by both and not located on the Reservation shall be subject to all property taxes levied by the State and the county and by the school district and any special purpose districts or other political subdivisions where such property is located.

18.5.6 *Fee in Lieu of Taxes on Non-Reservation Property Held in Trust.* All non-reservation real property held in trust by the Secretary shall be subject to the payment of a fee or fees in an amount equivalent to the real property tax that would have been paid to the applicable taxing authority had the property not been held in trust.

18.6 *Personal Property Taxes.*

18.6.1 *Personal Property Owned by Tribe.* All personal property owned by the Tribe during the period established by §3.2 of this Agreement and used solely on the Reservation shall be exempt from personal property taxes. Except, however, motor vehicles owned by the Tribe during the period shall be exempt from personal property taxes even if used off the Reservation.

18.6.2 *Personal Property Owned by Tribal Members.* All personal property owned by members of the Tribe shall be subject to personal property taxes levied by the State and by the county, school district, special purpose district, and other subdivision of the State, where the property is deemed to be located.

18.6.3 *Taxation of Other Personal Property.* All personal property located on the Reservation which is not exempt from personal property taxes under §18.6.1 shall be subject to personal property taxes levied by the State, county and any school or special purpose district encompassing the Reservation to the same extent that similar personal property is assessed and taxes elsewhere in the jurisdiction.

18.6.4 *Determination of Ownership.* For purposes of §18.5.1 through 18.6.3, determination of whether the Tribe is the owner of property must be made in the same manner as for other taxpayers for South Carolina tax purposes.

18.7 *Levy Against Property for Failure to Pay Property Taxes.* Subject to perfected security interests, if a taxpayer subject to property taxes under §§18.5.1 through 18.6.3 fails to pay the taxes owed, the appropriate taxing authority shall have the power to levy against any personal property subject to personal property taxes owned by the taxpayer within the county whether on or off the Reservation in order to satisfy the taxes due.

18.7.1 If this levy against the personal property is not sufficient to satisfy the tax lien, the county or other political subdivision may contact the State, and the State shall levy against other taxable property of the taxpayer in the State and remit any proceeds to the county or appropriate taxing authority which is owed the tax.

18.7.2 If the county or other political subdivision cannot satisfy its lien, the county may require the Tribe to cease allowing the taxpayer to do business on the Reservation.

18.7.3 If the taxpayer is in bankruptcy, the bankruptcy statutes shall apply to this Section.

18.7.4 The State or any political subdivision may not seize real property located on the Reservation.

18.8 *Vehicle License Fees.* The Tribe and its members shall be subject to all license and registration fees and requirements, all periodic inspection fees and requirements, and all fuel taxes imposed by federal, state, and local governments on motor vehicles, boats, and airplanes, and other means of conveyance.

18.9 *Sales and Use Taxes.* The Tribe, its members, and the Tribal Trust Funds shall be liable for the payment of allstate and local sales and use taxes to the same extent as any other person or entity in the state, except as specifically provided below.

18.9.1 *Tribal Purchases Exemption.* Purchases made by the Tribe for tribal government functions during the period established by §3.2 of this Agreement shall be exempt from state and local sales and use taxes.

18.9.2 *Catawba Pottery Exemption.* Catawba pottery and artifacts made by members of the Tribe and sold on or off the Reservation by the Tribe or members of the Tribe shall be exempt from state and local sales and use tax.

18.9.3 *Tribal Sales Tax.* During the period established by §3.2 of this Agreement, the

sale on the Reservation of all other items, whether made on or off the Reservation, shall be exempt from state and local sales and use taxes, but shall be subject to a special tribal sales tax levied by the Tribal Council equal to the state and any local sales tax that would be levied in the jurisdiction encompassing the Reservation but for this exemption. The South Carolina sales and use tax laws, regulations, and rulings shall apply to the special tribal sales tax, and the special tribal sales tax will be administered and collected by the South Carolina Tax Commission. The South Carolina Tax Commission will separately account for the special tribal sale tax, and the State Treasurer will remit the special tribal sales tax revenues periodically to the Tribe at no cost to the Tribe. The tribal sales tax shall not apply to retail sales occurring on the Reservation as a result of delivery from outside the Reservation when the gross proceeds of sale are $100 or less. In such case, the State sale tax shall apply. The Tribe shall impose a tribal Use tax on the storage, use or other consumption on the Reservation of tangible personal property purchased at retail outside the State when the vendor does not collect the tax. However, any use taxes which are collected by a vendor which is not located in the state will be subject to state use taxes and the use tax will be remitted to the state and not the Tribe. Any use taxes not collected by the vendor and remitted to the state will be subject to the Tribal use tax and must be collected directly by the Tribe.

18.10 *Payments in Lieu of Taxes.* The Tribe shall pay a fee in lieu of school taxes. That fee shall be determined by the county in the same manner and shall be the same amount that is paid by students from outside the county entering schools in the county. The fee payable by the Tribe shall be reduced by any funds received by the government for Impact Aid under 20 U.S.C. 236 et seq. or any other federal funds designed to compensate school districts for loss of revenue due to the non-taxability of Indian property. Any fee paid on behalf of a child under this section will be excluded from federal and state income of the child or his family for federal and state income tax purposes.

18.11 *Estate Taxes.* Members of the Tribe shall be liable for payment for all estate and inheritance taxes, except, however, that the undistributed share of any member in the trust fund established pursuant to §13.7 shall be exempt from federal and state estate and inheritance taxes.

18.12 *Eligibility for Consideration to Become an Enterprise Zone or General Purpose Foreign Trade Zones.* Notwithstanding the provisions of any other law or regulation, the Tribe shall be eligible to become, sponsor and operate (1) an "enterprise zone" pursuant to title VII of the Housing and Community Development Act of 1987 (42 U.S.C. 11501–11505) or any other applicable Federal (or State) laws or regulations; or (2) a "foreign-trade zone" or "subzone" pursuant to the Foreign Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u) and the regulations thereunder, to the same extent as other federally recognized Indian Tribes.

18.13 *Indian Tribal Government Tax Status Act.* The Indian Tribal Government Tax Status Act, 26 U.S.C. §7871, applies to the Tribe and its Reservation for South Carolina income tax purposes to the same extent as provided in the Federal Implementing legislation.

19. *General Provisions.*

19.1 *General Applicability of State Law.* Except as expressly otherwise provided in the implementing legislation, the Tribe and its members, any lands or natural resources owned by the Tribe, and any land or natural resources held in trust by the United States or by any other person or entity for the Tribe, shall be subject to the laws of the State and the civil, criminal and regulatory jurisdiction of the State, to the same extent as any other person or land in the State.

19.2 *Nonadmissibility.* This Agreement represents the compromise settlement of the Tribe's claim, and no term, condition, part, or provision of this Agreement shall be deemed an admission of liability on the part of any of the parties to this Agreement or the holder of property in the claim area in any pending or future suit in connection with the Tribe's claim.

19.3 *Impact of Subsequently Enacted Laws.* The provisions of any Federal law enacted after the date of enactment of the Federal law implementing this Agreement shall not apply in the State if such provision would materially affect or preempt the application of the laws of the State, including application of the laws of State to lands owned by or held in trust for Indians, or Indian Nations, tribes or bands of Indians. However, such federal law shall apply within the State if the State grants its approval by a law or joint resolution enacted by the General Assembly of South Carolina and signed by the Governor.

19.4 *Severability.* The implementing legislation shall provide that if the provisions of Sections 4, 5 or 6 of this Agreement, once incorporated into the implementing legislation, are held invalid, then all of the implementing legislation is invalid. Should any other section of this Agreement be held invalid once incorporated into the implementing legislation, the remaining sections of the implementing legislation shall remain in full force and effect.

19.5 *Subsequent Amendments to the State Act or Settlement Agreement.* The Federal Implementing legislation shall give the United States' consent to the Tribe and the State to amend the Settlement Agreement and/or the State Act, provided that consent to such amendment is given by both the State and the Tribe, and that such amendment relates to:

(1) the jurisdiction, enforcement, or application of civil, criminal, regulatory, or tax laws of the Tribe and the State;

(2) the allocation or determination of governmental responsibility of the State and the Tribe over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the Tribe;

(3) the allocation of jurisdiction between the Tribal courts and the State courts; or

(4) technical and other corrections and revisions to conform the State Act and the Agreement in Principle attached to the State Act to the Settlement Agreement incorporated by reference in this act.

19.6 *Effective Date of State Act.* The State implementing legislation shall provide that the act will take effect when the Governor certifies that the Counties of York and Lancaster have taken all actions required of them by the Settlement Agreement. However, the Governor may not make the certification until the Congress of the United States has passed and the President of the United States has signed into law Federal Implementing legislation which he also certifies as consistent with the Settlement Agreement.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from New Mexico has explained, H.R. 2399 settles what could have proved to be a costly and protracted lawsuit between the Catawba Nation and some 60,000 landholders in the State of South Carolina.

Over the past 20 or so years, the number of these settlements has grown. It is my view that such settlements are eminently more productive and beneficial to all parties than resorting to lengthy and often acrimonious court battles. However, while I support the objectives of H.R. 2399, I rise to outline a concern I have with this legislation: the amount of the Federal contribution to the monetary portion of the settlement agreement.

Under the terms of that agreement, the United States is charged with paying almost two-thirds of the settlement fund—or $32 million. This amount was apportioned in negotiations between South Carolina and the Catawba. It is my understanding that no Federal representative was present during that process in other than an observer capacity, and then only sporadically. It seems to me quite irregular for two third-parties to saddle the United States, which is not even a party to the Nation's lawsuit, with a multimillion-dollar obligation without the direct participation of the Federal Government.

Moreover, I am troubled with the amount of the Federal contribution vis-a-vis that of the State of South Carolina. Under the terms of the settlement agreement, the United States is required to contribute $32 million to the settlement fund, while the State of South Carolina and other local entities are required to contribute $18 million. Since this money is, in effect, restitution for the taking of the Catawba lands over the years it seems to me to be logical to apportion the percentage of the contribution based on the amount of culpability for that taking. Reference to the historical underpinnings of this case lead me to conclude that the more peccant parties are the State and its citizens, and thus it is the State that should bear the lion's share of the payment.

The Federal Government was certainly not blameless. After the signing of the Treaty of Paris which ended the Revolutionary War, the United States assumed the obligations of the British Crown under treaties previously signed by that government and the tribes. This included the Treaty of Pine Tree Hill of 1760 and the Treaty of Augusta of 1763, in which 144,000 acres were set aside in perpetuity for the Catawba's exclusive occupation and use. Yet despite treaty and concomitant trust obligations, the United States did nothing to prevent the alienation of the Catawba lands by the State of South

Carolina between 1789 and 1840. Over the ensuing years, various agencies and officials of the Federal Government ignored repeated entreaties by the Catawba seeking protection of their rights and the return of their lands.

While the culpability of the United States can thus be characterized as passive malfeasance, that of the State of South Carolina was clearly active. From the time of the signing of the Treaty of Augusta, the Colony of South Carolina and then the State allowed extensive non-Indian settlement and leasing of the Catawba lands. Then, in 1840, the Nation and the State signed the Treaty of Nation Ford pursuant to which the Catawba ceded title of all its lands to the State. This cession was clearly in violation of the Trade and Intercourse Act of 1790, which requires any transfer of Indian lands to States or private parties to be approved by the Congress. It is the violation of this statute upon which the Catawba base their legal suit.

This active versus passive dichotomy, much like the active/passive theory of tort law, seems to me to require a different calculation of the amounts that should be contributed by the State and the Federal Government, with the balance leaning considerably more in the latter's favor. Unfortunately, however, I do not have the luxury of pursuing that redistribution. It is clear to me that given the positions of the negotiating parties, and the close proximity in which the October deadline for resolution of this settlement looms, that we have little choice but to hold our noses and approve the settlement as is. Any change in the funding formula would likely result in the unraveling of the settlement agreement and the requirement that negotiations begin anew. In the interim, the Nation would be required to serve its 62,000 summonses and we would be faced with that which all parties have sought most strenuously to avoid.

It is my hope that in any future settlement negotiations in which the parties contemplate a Federal contribution such as in this case, officials from the Department of the Interior or related agencies will take a more active participatory role in the negotiation process in order to safeguard the interests of the United States. In fact, I foresee introducing legislation to require just that.

Mr. Speaker, in closing I note that the good that will result from the passage of this legislation in my mind outweighs my apprehension in regards to this issue. I urge my colleagues to support this legislation, and look forward to its swift passage by both Houses.

Mr. Speaker, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it will be my pleasure to yield time to the gentleman from South Carolina [Mr. SPRATT], without whose involvement and persistent efforts this bill would not have become a reality. The gentleman has been insistent, effective, and steadfast in pursuing this goal to serve his constituents so that we will not all be faced with a lawsuit come the end of October. I really want to commend the gentleman for his excellent work and his persistence.

Mr. Speaker, I yield 10 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, first let me extend my thanks and appreciation to the chairman of the Subcommittee on Native American Affairs of the Committee on Natural Resources, the gentleman from New Mexico [Mr. RICHARDSON], who has been enormous in his assistance to us; and also to the gentleman from California [Mr. MILLER], chairman of the committee, and to the gentleman from Wyoming [Mr. THOMAS], who has just made a very generous statement of support. I understand his concerns about the level of Federal participation, and we have discussed this before.

Mr. Speaker, I represent more than 2,000 Catawba Indians who will benefit if this bill becomes law, as well as some 62,000 innocent landowners who will be sued if this bill does not become law. In the interest of my constituents, I would like to provide the background of H.R. 2399.

I must first disclose that I am a landowner in the area of some 225 square miles claimed by the Catawba Indian Tribe, and I am 1 of 77 defendants named in their original law suit, *Catawba Indian Tribe of South Carolina* v. *State of South Carolina, et al.*, docketed as Civil Action No. 80-2050 in the U.S. District Court for South Carolina. Along with other named defendants, I moved for summary judgment. The district court granted my motion and issued an order releasing my land in the claim area from the suit. The Fourth Circuit Court of Appeals sustained the district court as to all but approximately 90 acres that I own, and remanded for a further showing of facts on my part. Because of my interest, I have sought the guidance of the House Committee on Standards of Official Conduct, and the committee advised me not to introduce the settlement legislation, which I did not introduce. My colleague from South Carolina, Congressman DERRICK, introduced this bill. The Committee on Standards also advised that I should not vote for passage of this bill, which I will not do. However, the Committee on Standards did inform me that because of the importance of this bill to a large part of my constituency, I may speak on the legislation when the House considers it, so long as I disclose my interest.

This bill will settle a land claim outstanding for more than 150 years and a lawsuit brought by the Catawbas, which has been pending for more than 13 years. As part of the settlement, the bill will grant the Catawbas Federal recognition as an Indian tribe, restoring a relationship terminated by Congress in 1962.

This settlement has not come easily. For the past 4 years, both sides have been engaged in long, hard, and sometimes contentious negotiations. H.R. 2399 is the fruit of those efforts. The bill is supported by the tribe, the Office of Management and Budget, the Department of the Interior, the Native American Rights Fund, the National Congress of American Indians, and the State of South Carolina, which enacted implementing legislation on June 14, 1993. A bill virtually identical to this bill passed the Senate on August 6, 1993.

The first congressional hearing on the status of the Catawbas and their land claim was held by a Senate committee in the 1930's. As far back as June 12, 1979, a little more than 1 year before the pending suit was filed, the House Interior Committee held a hearing to examine the present Catawba claim. On July 2, 1993, the House Natural Resources Committee, Subcommittee on Indian Affairs, held a hearing on the bill before us, and on July 22, 1993, the Senate Select Committee on Indian Affairs also held a hearing on the companion bill in the other body. All three hearing records provide extensive background on this dispute, the history of the tribe, and the 150-year-old land claim.

I would like to submit for the RECORD a summary of the agreement in principle and the State and Federal implementing legislation:

MONETARY PROVISIONS OF SETTLEMENT

At the Interior Committee's first hearing on the Catawba claim on June 12, 1979, Kenneth Woodington, Assistant Attorney General for the State of South Carolina, told the Committee in his testimony (p. 26, Serial No. 96-17):

"As far as a cash contribution, and any other sort of contribution by the State, we defer to the representatives of the South Carolina General Assembly . . . but we would ask that the committee take into consideration, as is being done in Maine, past contributions of the State to the tribe. For instance, in the 1940s, the State contributed enough funds to purchase 3,200 acres of land. At that time, it was only $75,000, but it did purchase 3,200 acres of land . . ."

Congressman Udall, then Chairman of the Interior Committee, asked of Mr. Woodward (p. 26, Serial No. 96-17):

"You do not reject outright, depending on the actions of the South Carolina Legislature, some contribution beyond the land . . . I certainly agree with what has been said earlier about the pattern in the East, which has been for some sort of modest contribution, at the least, from the State, and that is the way I would lean at this point . . ."

Since the Treaty of 1840, the General Assembly of South Carolina has appropriated in the aggregate over $375,000 for the Catawba Indian tribe, according to Dr. Thomas Blumer of the Library of Congress, a scholar

of the tribe. Dr. Blumer conditions his summary by saying that he cannot verify how much was actually disbursed, but he has identified from legislation enacted these sums of money which were appropriated by the State of South Carolina over more than a hundred years.

In addition to past payments, and 630 acres of land that it holds in trust for the tribe, the State of South Carolina has agreed to contribute $12.5 million over five years. Local government and private sector sources are to contribute another $5.5 million. State, local,and private sector sources will pay, therefore, $18 million toward settlement, which is more than the "modest contribution" Chairman Udall alluded to fourteen years ago.

Here is an outline of the monetary payments called for by the "Agreement in Principle" and by state and federal implementing legislation:

1. Total Payments to Catawbas over 5 Years: Payments to the Catawbas from all sources will total $50 million over five years.

2. Sources of Payment:

(A) $32 million will come from the federal government.

(B) $18 million will come from state, local, and private sector sources.

(C) The state will provide $2.5 million per year for five years, accompanied by local government contributions.

(D) York County and Lancaster County will contribute $2.6 million per the following schedule: York County: $470,000 per year for five years; and Lancaster County: $50,000 per year for five years.

(E) Private sector sources include: $500,000, now being held in escrow, paid by Crescent Resources, Inc. for a court-approved release of land; $500,000, put forth by Duke Power Company as a matching challenge offer; $500,000 from private sources matching Duke's challenge offer, which still must be solicited and committed; and $1,400,000 from title insurance companies.

3. Final Resolution of All Catawba Claims: When the implementing legislation has been enacted, the land and landowners in the claim area will be freed of the Catawbas' claims. The existing suit will be dismissed with prejudice, and the Catawbas' claims will be extinguished by an Act of Congress.

4. Trust Funds:

(A) Settlement payments will be placed in five trust funds held by the Secretary of the Interior for the benefit of the Catawba Indian Tribe. The Trust Funds are designated: Land Acquisition Trust Fund, Economic Development Trust Fund, Education Trust Fund, Elderly Assistance Trust Fund, and Per Capita Distribution Fund.

(B) The settlement plan permits the Catawbas to place any of their trust funds under outside management by an investment firm, provided the firm is approved by the Secretary and has a record of competence in managing pension funds and endowments. The Secretary would be exculpated from liability for losses by the trusts but would retain oversight responsibilities.

(C) The following are the specific allocations of funds: 15% for the Per Capita Trust; 33% of State, County, Private Contributions for Education Trust; and 10% maximum for attorney's fees and expenses.

TRIBAL SOVEREIGNTY AND JURISDICTION

At the hearing held before the Interior Committee on June 12, 1979, Assistant Attorney General Ken Woodington also laid out the jurisdiction and sovereignty the state wanted the Catawbas to have if the tribe were recognized and a new reservation established. Assistant Attorney General Woodington used for comparison the Rhode Island Settlement Agreement, which Congress had recently enacted, which reserved virtually all civil and criminal jurisdiction in the state. He made it clear that the State of South Carolina did not want jurisdiction of the Catawba tribe governed by Public Law 280.

To the concept of limited jurisdiction that Woodington laid out, Chairman Udall responded as follows (p. 12, Serial No. 96-17):

"I would be inclined to agree with you on the jurisdictional question. I think it is one thing to have the Navajo Reservation in my State, which is as big as West Virginia, with a long history of self-government and special problems. It is one thing to see criminal and civil jurisdiction in the Navajos. It is quite another thing to say in an Eastern State where you do not have an established reservation, to then go out and buy and establish a new reservation, and then give a tribe without an existing tribal structure civil and criminal jurisdiction. I think you are on sound ground there . . ."

The sovereignty and jurisdiction of the Catawba tribe has been established accordingly, following the other Eastern Indian settlements as precedents, but in the end granting this tribe more civil and criminal jurisdiction than most of the Eastern Indian settlements to date. Here is a summary of the jurisdictional provisions of the implementing legislation:

1. Federal Restoration of the Catawba Indian Tribe: The trust relationship between the Catawba Tribe and the United States will be restored. The tribe and its members will qualify for federal Indian programs, such as health and education benefits, housing loans, and grants and loans for reservation development.

2. Reservation:

(A) The State will convey the existing 630-acre reservation to the Secretary of the Interior.

(B) The Secretary, acting for the Catawbas, may acquire in specified acquisition zones up to 3,000 acres of developable land, including the existing reservation, plus up to 600 additional acres of non-developable flood plain and wetland or park and recreation land dedicated permanently to public use. All acquisitions must be from willing sellers, and not by condemnation.

(C) After a comprehensive land study is completed, the tribe may seek approval of the county council and state legislature to acquire up to 600 additional acres.

(D) The Secretary and Tribe must use "every reasonable effort" to enlarge the existing reservation "by assembling a composite tract of contiguous parcels that border and surround the existing reservation."

(E) If the Secretary and tribe desire to purchase non-contiguous lands to be placed in reservation status, they first must submit an acquisition and land-use plan to county planning authorities and to the county council where the land is situated. The County council will review the plan according to criteria in the settlement agreement and make recommendations to the Governor. The Governor will review the application and countycouncil's recommendation and decide whether to allow acquisition. The Governor's approval cannot be unreasonably withheld and will be reviewable under the South Carolina Administrative Procedure Act.

(F) If the tribe is unable to acquire all of the additional land in the vicinity of the existing reservation, a second expansion zone is designated north of the Catawba River. Non-contiguous tracts are limited to three, with no more than two in any one expansion zone.

3. Tribal Self-Government:

(A) The tribe will have authority to regulate the conduct of its members on the reservation and certain other on-reservation activities. If it chooses, the tribe may establish a tribal court. All laws and regulations of the state will apply on the reservation, except as otherwise provided. In certain areas, the tribe may supplement these laws with tribal laws. The tribe will have jurisdiction over internal tribal matters, including membership criteria; laws that regulate the use of tribal property; petty crimes and rules of conduct applicable to tribal members and others doing business on the reservation; the exclusion of non-members from the reservation, except for public roads and easements.

(B) The criminal jurisdiction of the tribal court will be restricted to members and limited in subject matter to the jurisdiction of state magistrate's courts. State law will generally apply to activities of non-members on the reservation. The tribe may also allow its tribal court to exercise jurisdiction over contract disputes where the parties provide for tribal court jurisdiction or where the performance of the contract occurs substantially on the reservation. In addition, the tribal court may exercise jurisdiction over domestic matters where both spouses are members of the tribe and reside on the reservation; over child custody matters arising under the Indian Child Welfare Act; over intentional torts committed on the reservation which cause bodily harm or damage to tangible property; and over negligence actions arising on the reservation, except that nonmembers can remove an action in negligence if the amount exceeds the jurisdictional limits of the magistrate's court.

4. Taxation:

(A) Reservation land will be exempt from real property taxation, as are all Indian reservations. In addition, buildings, fixtures, and improvements owned by the tribe on the reservation will be exempt. Homes of tribal members residing on the reservation will not be subject to real property taxes, but residents on the reservation will pay personal property taxes and income taxes; and for each reservation child attending public school, the tribe will make a payment in lieu of school district taxes. Certain state tax exemptions will expire after 99 years.

(B) Sales on the reservation will not be subject to state sales tax, but the tribe will levy its own sales tax in the same amount and be subject to audit by the State Tax Commission.

5. Gambling and Bingo:

(A) The tribe and the State have agreed that the federal law known as the "Indian Gaming Regulatory Act" will not apply to the Catawba Indian Tribe.

(B) In lieu of having the Indian Gaming Regulatory Act apply, the tribe will have the option of sponsoring bingo games under a special license issued by the South Carolina Tax Commission. The tribe's license will allow more frequent sessions (up to six days a week) and higher stakes (up to $100,000.00) than allowed other bingo operators licensed by the state. Bingo operations will be supervised and audited by the State Tax Commission, and the State Tax Commission will levy a 10% tax on gross receipts, payable to the State.

(C) The tribe may operate bingo games at two sites in the state. If the tribe chooses to operate within the claim area but off the reservation, the area must be zoned compatibly,

and the tribe must consult with city or county authorities before the site is selected. If the tribe chooses to operate outside the claim area anywhere else in the state, the approval of the county government and municipal government, if any, are required.

6. Tribal Membership: All persons named on the 1962 tribal roll and all their lineal descendants are eligible for membership in the tribe.

7. Application of General Laws: All environmental and public health laws, federal and state, will apply on the reservation. The tribe's water rights in the Catawba River will be no more nor less than the rights of any riparian landowner; and the tribe will not be able to restrict passage on the river. The tribe will adopt the York County Building Code, and may contract with York County for enforcement. The tribe will have the authority to zone the reservation, but is obliged to consult with York and Lancaster County before implementing its land-use plan or zoning law. By the same token, the counties and the tribe are required to consult with each other regarding major developments that might impact the reservation and the surrounding area.

FEDERAL CONTRIBUTION TO SETTLEMENT

From the outset, it was assumed by everyone that the federal government had to contribute significantly if this claim was ever to be settled. Attorney General Griffin Bell assumed as much when he reviewed the Eastern Indian land claims for the Carter Administration, and all the parties at the first hearing before the House Interior Committee presumed a significant federal contribution. Indeed, H.R. 3274, filed on March 27, 1979, and printed on page 2 of Serial No. 96-17, called for payment of the full settlement out of the United States Treasury.

Nevertheless, it is fair to ask, "Why should the federal government contribute $32 million to this settlement?"

The short answer is that the Catawbas lost their land and have now lost most of their claim for recovery because of the failure of the federal government to protect their rights and interests, not once but continually over a period of two hundred years. Consider this long list of occasions on which the federal government turned a deaf ear to the Catawbas, ignored their plight, and did nothing to protect their interests, even when the government clearly occupied a trust relationship and knew the tribe had a potentially valid claim:

(1) As early as 1782, Catawba Indians traveled to Philadelphia to petition Congress for protection of their reservation lands from encroachment by white settlers. They were referred to the South Carolina General Assembly.

(2) In 1791, the chiefs of the Catawba Tribe met President George Washington as he traveled from Camden, South Carolina to Charlotte, North Carolina, and asked for protection of their lands from encroachment by white settlers. Washington noted their entreaty in his journal, but no follow-up is recorded.

(3) In 1825, President James Monroe and Secretary of War John Calhoun reported to the Senate that the Catawbas were among those tribes which still held lands within the United States. A War Department chart indicated that the Catawbas possessed 144,000 acres.

(4) In 1848, the Catawbas wrote a letter to President James K. Polk, protesting the Treaty of 1840, made between the Catawbas and the State of South Carolina, by which the tribe ceded title to the State of their 144,000 acres. Polk was born and lived until he was 12 years of age less than five miles from Catawba country, and had many relatives who remained there. He must have known of the tribe's circumstances, yet records do not show any action to assist them.

(5) In the Act of July 29, 1848, and again in the Act of July 31, 1854, Congress demonstrated its awareness of the Treaty of 1840 by appropriating money for removal of the Catawbas west of the Mississippi, but except for this appropriation for removal, which was never spent, Congress did nothing to redress the tribe's grievances or protect their interests.

(6) In 1887, Catawba Chief Thomas Morrison visited the Interior Department and petitioned the United States for assistance in settling the Catawbas' claim to 144,000 acres. In the same year, James Kegg, a Catawba, and son of the chief who signed the Treaty of 1840, wrote L.L.C. Lamar, Secretary of the Interior, requesting federal assistance in reaching a settlement concerning Catawba lands in South Carolina. No action was taken.

(7) In 1895, a group of Catawbas submitted their "Petition and Memorial in the Matter of Claims and Demands of the Catawba Indian Association, to the United States." No action was taken.

(8) In 1905, the Catawba Tribe retained a Washington attorney by the name of Chester Howe, who submitted to the Bureau of Indian Affairs a formal request for assistance based on the requirements of the Nonintercourse Act. It was accompanied by legal briefs and a lengthy history of the claim. The Commissioner of Indian Affairs denied the request on the ground that the Catawbas and their lands were not protected by federal law, a ground later found by the federal courts to be erroneous.

(9) In 1908, the Catawba Tribe petitioned the Commissioner of Indian Affairs again, and was denied again.

(10) In 1910, the United States Indian Service initiated an investigation of the Catawbas' claim against the State of South Carolina. Special Indian Agent Davis submitted a report advising the tribe to submit its claim to the state legislature. The tribe submitted the claim to the state legislature, which declined to take responsibility for the claim or the tribe.

(11) Between 1926 and 1943, repeated inquiries were made by the tribe, its attorneys, and Congressman James P. Richards. A hearing was held by the Senate Committee on Indian Affairs in Rock Hill, South Carolina, at which the Treaty of 1840 was discussed at length. In 1940, BIA official Ward Shepard reported that the Catawba Tribe had a claim against the State of South Carolina arising out of the Treaty of 1840.

(12) In 1943, the State of South Carolina paid for the purchase of 3,434 acres for the Catawba Indian Tribe. The State sought a release in consideration of this purchase at a cost of some $75,000. The Department of Interior refused to allow the tribe to release its claim against the State. The land was purchased by the State and conveyed to the United States as trustee under a Memorandum of Understanding with the Catawbas.

(13) From 1943–1962, the Bureau of Indian Affairs assumed responsibility for the tribe under a Memorandum of Understanding. In 1958, as part of the assimilation movement, the BIA began efforts to terminate federal supervision and services to the Catawba Indian Tribe. The tribe agreed to termination and division of tribal assets, but pressed BIA officials about the status of their land claim. When the tribe adopted a resolution approving termination in January 1959, it insisted on inclusion of a proviso reserving its claim.

(14) On February 5, 1959, Douglas Summer Brown, author of "Catawba Indians: People of the River," wrote the agent at BIA supervising the Catawba termination, documenting the existence of the claim and concluding that "any agreement or settlement made now cannot be final, but the question will be brought up again and again in the future."

(15) Despite its knowledge of the Catawbas' land claim, and despite its responsibility to liquidate and distribute the assets of the tribe, the BIA did nothing to help the tribe assert, enforce, or liquidate its claim.

(16) In addition, the BIA failed to protect the Catawbas' claim in the termination act and used boiler plate language in the act which had the effect of applying South Carolina laws of limitation to apply to the Catawbas' claim, without warning the tribe of the time frame within which they must sue or lose their claim.

(17) In 1977, the Solicitor of the Department of the Interior concluded, in response to a formal litigation request, that the Treaty of 1840 was probably invalid under the Nonintercourse Act; that the United States had a duty to protect the Catawbas' interests under the Nonintercourse Act; that the United States had denied assistance in the past under erroneous legal theories; and that the United States should bring suit on behalf of the tribe. The Solicitor's litigation report concluded: "Thus, the case is a particularly inviting one for a negligence claim against the United States, should this Department fail to advocate relief of the Catawba." Despite the request, the Department of Justice declined to bring suit, mainly because Attorney General Griffin Bell did not want to sue innocent landowners. He recommended instead governmental settlement of the claim.

Mr. Speaker, without the assistance of the Native American Rights Fund [NARF], the matter would probably have ended here. But with NARF as their pro bono counsel, the Catawbas were able to file suit on October 20, 1980. In 1986, the U.S. Supreme Court held that the Termination Act resulted in the application of State statutes of limitation to the Catawba land claim. In 1989, the Fourth Circuit Court of Appeals ruled that South Carolina laws barred the tribe's claim to any lands adversely possessed for 10 years between July 1, 1962, the effective date of termination, and October 28, 1980, the date suit on the claim was filed. On remand of the suit to the district court, the court released more than 75 percent of the land on motions for summary judgment.

Had the Federal Government on any of the foregoing occasions upheld its trust responsibilities, the Catawbas would not have been denied redress for 150 years or lost the major part of their claim due to adverse possession. Their land claim would have been settled long ago by the persons responsible for it and not by innocent landowners.

When the Catawba Indian Tribe discovered the legal effect of the Termination Act on their land claim, they brought suit against the United States of America in the Court of Federal

Claims for breach of an implied-in-fact contract to protect the tribe's claim to possession of 144,000 acres of land that were reserved to the tribe in treaties with the Crown. The court held that Federal statutes of limitation had run on any claim the Catawbas could assert against the Federal Government. *Catawba Indian Tribe of South Carolina* v. *U.S.*, 24 Cl.Ct. 24, 1991. While the statute may have run on the United States' legal liability to the Catawbas, no statute runs on the Government's moral responsibility; indeed, it is questionable whether the Federal Government should hide behind a statute of limitations when it is charged with failing to uphold fiduciary responsibilities.

The United States is being asked, therefore, to contribute to this settlement because it bears major culpability for this claim, and is morally, if not legally, responsible to this tribe.

What will happen if this bill does not pass, and the Federal Government does not assume its share of the settlement? Negotiations will resume, and so will the law suit. The State of South Carolina, for its part, will probably have little choice but to seek dismissal from the suit under the recent ruling of *Blatchford* v. *Native Village of Noatak*, 111 S.Ct. 2578, 1991, which held that an Indian tribe cannot sue a State in Federal court. The Catawbas, for their part, will probably have no choice but to sue some 62,000 landowners, filing a lis pendens with each suit. In a highly populated and developed area covering 225 square miles in South Carolina, real estate sales and lending will come to a halt. Pending the outcome of these suits, real estate will plummet in value. Landowners will have to bear legal fees and expenses running into millions of dollars. In the end, after all the turmoil, the vast majority of the landowners will probably prevail, and the Catawbas will probably be left with much less than what they have won by way of this settlement.

In short, if this bill is not enacted, the settlement will collapse, and everyone will lose, including the Federal Government. The Federal Government must be included because if this settlement collapses, the Federal Government will not bring another Eastern Indian land claim to a successful resolution, which is an important objective. The Federal Government will not see another terminated tribe restored to Federal recognition, which is also Federal policy. And the injustice done the Catawbas by years of Federal neglect will not be rectified; it will be compounded. Injustice will also be visited upon some 62,000 innocent landowners. They will be the victims of an antiquated Federal law, the Indian Nonintercourse Act, which no one clearly understands. They will be sued for recovery of title and possession of their homes, farms, and businesses, and will suffer considerable anguish, all of it unnecessary; because everyone knows that if the Nonintercourse Act were ever applied to dispossess people of their homes, Congress would not stand for it to happen.

When Attorney General Griffin Bell completed his review of the Eastern Indian land claims, he reached several conclusions, set out in a letter to Secretary of the Interior Cecil D. Andrus, dated June 30, 1978. One was that landowners today are wholly innocent and should not be threatened with loss of their lands or charged with the cost of settlement. He refused to let the Justice Department bring suit on this claim because the fact that the landowners are completely innocent of any wrongdoing weighs heavily against suing them. The Attorney General concluded that of necessity, it is the Government's responsibility to settle these claims. He suggested that "it is completely within the power of Congress to remedy the tribal claims by the process of ratifying the ancient tribal agreements with the States. Such ratification could be accompanied by payment to the tribes in appropriate amounts. In the alternative, the tribes could be given a cause of action against the United States in the Court of Claims." Fifteen years after the Attorney General rendered his opinion, this bill comes before Congress, asking the Federal Government to face up to its responsibility and help settle this claim.

Mr. Speaker, I need to clarify before concluding the status of tax provisions originally included in this bill. The settlement agreement with the Catawba Indian Tribe provides that the tribe will be eligible for certain Federal tax benefits which are common to claim settlements of this kind.

First, it was agreed that those landowners selling tracts to the tribe for expansion of its reservation would qualify for section 1033 of the Internal Revenue Code of 1986, so that recognition of their gains could be deferred if the proceeds are invested in like-kind properties within a certain period of time.

Second, it was agreed that per capita payments to members of the tribe and income earned from the sale of Catawba pottery would be exempt from Federal income tax.

Third, it was agreed that contributions from the private sector made to the tribe to help settle their claim could be treated as charitable deductions or as contributions in settlement of litigation, at the option of the donor.

It was also agreed, of course, that when the Catawba Indian Tribe became a federally recognized tribe, it would be treated as other recognized tribes are treated for tax purposes, which basically means that income earned by the tribe and by tribally owned businesses would be exempt from Federal income taxes. It was also agreed that the tribe would qualify for section 7871, known as the Indian Tribal Government Tax Status Act.

The Joint Tax Committee scored the revenues lost or forgone by virtue of these provisions at $500,000 for fiscal year 1994 and at $1 million for each year thereafter.

In a meeting last week, Chairman ROSTENKOWSKI informed me that the Ways and Means Committee would be unable to move H.R. 2399 as a separate bill and could only report these special provisions as part of a miscellaneous tax bill which the Ways and Means Committee is now considering. The Catawbas were reluctant to take this alternative, because these tax benefits were specific provisions of their settlement agreement. Moreover, Congress has bestowed similar benefits, such as section 1033 treatment and tax exemption for per capita distributions, in a number of other Indian settlements. But since the Catawbas face a deadline and do not want to delay adoption of the bill, the tax sections have been stricken by adding onto this bill a new section 16. Section 16 has the effect of making the bill silent as to Federal taxation.

Section 16 means that the Catawbas will still qualify for the generic tax treatment and tax benefits that normally accrue to tribes by virtue of being federally recognized. For example, it is everyone's understanding, including the Ways and Means Committee, that the tribe will still be eligible for section 7871. Virtually all other totally recognized Indian tribes qualify for section 7871, and enactment of this restoration bill should make the Catawba Indian Tribe of South Carolina eligible as well. To eliminate any ambiguity on this point, we added in section 16 the phrase "other than by reason of the trust relationship between the United States and the Tribe." All the key parties, including the Ways and Means Committee, have approved this additional provision. I expect the Internal Revenue Service to grant the tribe section 7871 qualification and benefits retroactive to the time this legislation is enacted. It is also my understanding that income earned by the tribe and by tribally owned businesses will be exempt from Federal income tax. Other federally recognized tribes do not pay Federal income taxes and neither will the Catawbas.

I understand the tribe's disappointment over the decision to drop from this bill special tax provisions that were specific parts of their settlement agreement. But the eventual enactment of some or all of these provisions should not be ruled out. When the next tax bill is reported from the Ways and Means Committee to the House, it should at least contain tax exemption of the per capita distributions, and section 1033 treatment for land sales to expand the reservation. Similar claim

settlements with other Indian tribes have included these provisions, and this settlement act should include them as well.

Mr. Speaker, I cannot vote for or against this bill, but I can speak for my constituents. Some 100,000 people live in the area claimed by the Catawba Indian Tribe; and since 1977, they have lived under a cloud—their homes, farms, and businesses encumbered by this claim. These people, I assure you, will applaud the enactment of this bill. And some 2,000 to 3,000 Catawba Indians will welcome enactment as well, grateful at last for the settlement of their claim.

□ 1350

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from South Carolina [Mr. SPRATT], and would also like to stress that the gentleman has played an outstanding role in this debate, has complied with all ethical guidelines, and has been a party that has been constructive within the guidelines of what the gentleman just stated. Let me again stress that the gentleman has been persistent in his efforts to represent his constituents, and he was able, with his unique skills, to move the process along.

I, too, want to thank the gentleman from Wyoming [Mr. THOMAS] and the chairman of the full committee for their excellent work and persistence, as well as our committee staff.

Mr. DERRICK. Mr. Speaker, I rise in support of H.R. 2399, a bill I introduced to settle the Catawba Indian dispute. I want to thank Chairman MILLER and Chairman RICHARDSON for moving this important bill as well as Representatives YOUNG and THOMAS.

Let me begin by saying that I introduced this bill at the request of my colleague, Congressman JOHN SPRATT, whose district includes the entire claim area. Congressman SPRATT was unable to introduce the bill because he is a named defendant in the lawsuit.

H.R. 2399 will resolve, once and for all, a 150-year-old claim by the Catawba Indians to 144,000 acres of land in York, Lancaster, and possibly Chester Counties, SC. Permit me to give a brief history of the claim. The Catawbas were granted this land by the King of England in a 1760 treaty and the tribe purported to sell it in 1840 to the State of South Carolina. The sale was never ratified by Congress, as required by the Indian Non-Intercourse Act; consequently, the Catawbas claim the sale was invalid. Thus, the Catawba Indians have been pressing their claim to recover the land for well over a century.

In 1980, after requests to the Federal Government were rebuffed, the tribe filed a suit in Federal district court against the State of South Carolina, the local governments, and 77 named defendants. They demanded trespass damages and title to 140,000 acres of land. For 13 years, this case has been bouncing back and forth between the district court, court of appeals, and the U.S. Supreme Court, and no end to the litigation is in sight. Last summer, the tribe was concerned that a 20-year State statute of limitations would expire in October 1992. Consequently, they made preparations to sue 62,000 innocent landowners before the deadline. They had already printed 62,000 summonses and complaints which were sitting in a warehouse in Falls Church, VA. These suits, if filed, would have represented one of the largest suits in the history of the Federal civil court system. Fortunately, we were able to avoid the litigation disaster when Congress extended the statute of limitations for 1 year. But this statute expires again at the end of 1993.

Negotiations to settle the dispute began, in earnest, 3 years ago. They have been long, drawn out, and contentious. On several occasions, they almost broke apart. Finally, last August, the parties struck a deal. H.R. 2399 and the companion State legislation embody the fruits of those efforts. All parties had to make significant compromises to reach an agreement. The Catawbas, the State of South Carolina, Congressman SPRATT, and Senators HOLLINGS and THURMOND all support this legislation in its current form and oppose any changes to it. All of the parties realize that any changes to thislegislation could easily unhinge the entire agreement.

H.R. 2399 contains several important provisions. First, it restores the Catawbas as a federally recognized tribe. Interestingly, the Catawbas are the last terminated tribe to be restored. In addition to the restoration, this bill will provide $50 million to the tribe over 5 years. The Federal Government will pay 64 percent—$6.2 million over 5 years—the State will pay $12.5 million and local authorities and private sources will pay the balance. The compensation will be paid into five different trust funds. The legislation also grants the tribe limited sovereignty on a reservation whose size may reach 4,200 acres.

It is true that my congressional district does not include the Catawba land claim. But I agreed to introduce this legislation, in part, because the settlement makes sense for the State of South Carolina and for the Federal Government. If this case is not settled, 62,000 innocent landowners will be sued. Each would be forced to pay hundreds of dollars to lawyers to defend their title. They will be unable to sell their land, borrow against it, or obtain title insurance until the litigation ends. Development in one of the fastest growing parts of South Carolina will be frozen. Because resolution of this claim is important to South Carolina, the State, local governments, and private sources have agreed to pay $18 million to settle the claim.

The Federal Government also has an important interest in settling the claim. The Federal Government does not want to see innocent landowners become victims to expensive and endless litigation. The merits of this case are particularly compelling because the State of South Carolina will probably be dismissed from the suit. Most of the large landowners have already been dismissed from the suit. That means the only remaining defendants are individuals owning very small parcels who can least afford the cost of litigation. Moreover, the Federal Government has pursued for the past decade a policy of restoring tribes which Congress terminated in the 1940's and 1950's. The Catawbas are the last terminated tribe to have their trust relationship restored.

Mr. Speaker, H.R. 2399 is a fair bill that will settle once and for all the land dispute of the Catawba Indians. Once again, I want to thank Chairman RICHARDSON for moving this bill so quickly and I urge my colleagues to support H.R. 2399.

Mr. RICHARDSON. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore (Mr. MANTON). The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 2399, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1400

PERSONAL EXPLANATION

Mr. SPRATT. Mr. Speaker, I ask that the RECORD show that I did not participate in that vote.

RECESS

The SPEAKER pro tempore (Mr. MANTON). Pursuant to clause 12 of rule I, the Chair declares a recess until 4 p.m.

Accordingly (at 2 o'clock p.m.) the House stood in recess until 4 p.m.

□ 1602

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 4 o'clock and 2 minutes p.m.

POSTPONING CONSIDERATION OF HOUSE RESOLUTION 134

Mr. INHOFE. Mr. Speaker, because of the fact of the inclement weather, a lot of Members are not able to make it in today. There has been an agreement between the leadership of the Republican and Democrat Parties that I make the following unanimous-consent request.

Mr. Speaker, I ask unanimous consent that the consideration of House Resolution 134, made in order for today under the previous order of the House of September 23, 1993, shall instead be in order immediately after the approval of the Journal on September 28, 1993.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I simply want to explain to Members and add to what the gentleman from Oklahoma [Mr. INHOFE] said, that we have a condition today where there is bad weather not only here, but apparently in a number of other places across the country. We have learned there are probably dozens of Members who are stranded and unable to get here today. So we are going to try to avoid any votes today of any kind.

First, I would like to tell Members that tomorrow House Resolution 134, discharge petition names, will be considered right after the 1-minutes.

Today we will go to conference on foreign operations and D.C. appropriations, with no votes expected. We will then have more debate on the DOD authorization rule. The vote will be rolled until tomorrow. We will then have suspension votes ordered earlier today, but they will occur tomorrow.

Mr. Speaker, we will meet tomorrow at 10 a.m. We will first consider, again, House Resolution 134. There will then be an Interior motion to conference, and then back to DOD authorizations.

MAKING IN ORDER ON WEDNESDAY NEXT OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE JOINT RESOLUTION 267, CONTINUING APPROPRIATIONS, FISCAL YEAR 1994

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that it shall be in order on Wednesday, September 29, 1993, or any day thereafter, to consider in the House, any rules of the House to the contrary notwithstanding, House Joint Resolution 267, making continuing appropriations for fiscal year 1994, and that debate be limited to 1 hour, the time to be equally divided and controlled by myself and the gentleman from Pennsylvania [Mr. MCDADE], and that the previous question shall be considered as ordered on the resolution to final passage without intervening motion, except one motion to recommit.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2295, SUPPLEMENTAL APPROPRIATIONS FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION ACT, 1993

Mr. OBEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2295), making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1994, and making supplemental appropriations for such programs for the year ending September 30, 1993, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. LIVINGSTON moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on H.R. 2295, be instructed to agree, to the extent permissible within House Rules, to provisions that implement the reforms recommended in the National Performance Review with respect to the Agency for International Development, including insisting on the House position on amendment numbered 27, to delete employment floors for the Agency for International Development Office of Inspector General included by the Senate.

Mr. LIVINGSTON (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER. The gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 30 minutes.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker this motion to instruct is simple. It states that as far as can be done, the managers on the part of the House should incorporate the recommendations of the Vice President's National Performance Review pertaining to reforming the Agency for International Development into the foreign operations appropriations bill.

The intent is to show that Members on this side of the aisle are as eager as anybody to begin the effort to downsize Government and reduce its cost.

The National Performance Review released on September 7, 1993, contained seven recommendations for AID. I will place them in the RECORD.

In short, they include: reducing funding, spending and reporting micromanagement; redefining AID's mission and priorities; overhauling the AID personnel system; and closing or consolidating 50 of AID's missions overseas.

In addition, to help maintain flexibility with respect to personnel, the Director of Management and Budget, Mr. Panetta, asked the Appropriations Committees to eliminate personnel floors from the 1994 bills. In this bill, the Senate added personnel floors for the AID inspector general's office, and the motion instructs the conferees to insist on eliminating those floors.

Mr. Speaker, Republicans are in favor of downsizing and reducing the cost of Government, and this motion is intended to send a signal that we should start now, not in 1995 as proposed by the National Performance Review.

Mr. Speaker, in closing, I would like to indicate I will not seek a vote, and I believe the motion is acceptable to the distinguished chairman of the subcommittee, my good friend, the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to my good friend, the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, let me simply say the gentleman from Louisiana [Mr. LIVINGSTON] is correct. We have absolutely no objection to the motion on this side. The committee intends to do virtually everything that the motion discusses. So we are happy to join with the gentleman in supporting this motion.

Mr. LIVINGSTON. Mr. Speaker, reclaiming my time, I thank the gentleman from Wisconsin [Mr. OBEY] for his support.

I would also say that it is my understanding that my enthusiasms for these recommendations is exceeded only by the chairman's, and I want to congratulate him on the leadership role he is already taking on making sure these recommendations are carried into effect.

FROM REDTAPE TO RESULTS—CREATING A GOVERNMENT THAT WORKS BETTER AND COSTS LESS—FISCAL IMPACT, 1994–99

Recommendation	Change in— Spending	Revenues
AGENCY FOR INTERNATIONAL DEVELOPMENT		
AID01—Redefine and Focus AID's Mission and Priorities (With the end of the Cold War, AID must rethink how it will operate. NPR recommends steps to plan for this new mission and proposes new authorizing legislation to define its post-Cold War mission and priorities.)	CBE	CBE
AID02—Reduce Funding, Spending and Reporting Micromanagement (Eliminate AID's outdated or unduly burdensome reporting requirements and reduce legislative earmarks to provide greater operating flexibility.)	CBE	CBE
AID03—Overhaul the AID Personnel System (Recommendations include changes in AID's personnel system to integrate its multiple systems and review benefits.)	NA	NA
AID04—Manage AID Employees and Consultants as a Unified Work Force (Lift some current personnel restrictions and give managers authority to manage staff resources more efficiently and effectively.)	CBE	CBE
AID05—Establish an AID Innovation Capital Fund (Create a capital investment fund to improve information and financial management systems and customer service.)	NA	NA
AID06—Reengineer Management of AID Projects and Programs (AID should use pilot programs and new approaches to emphasize flexibility, innovation, customer service and program results.)	CBE	CBE
AID07—Consolidate or Close AID Overseas Missions (AID should regionalize missions and staff services overseas and close nonessential missions. It should establish "graduation" criteria for countries receiving U.S. assistance.)	CBE	CBE

CBE—Cannot be estimated (due to data limitations or uncertainties about implementation time lines).

NA—Not applicable—recommendation improves efficiency or redirects resources but does not directly reduce budget authority.

The SPEAKER. Does the gentleman from Wisconsin [Mr. OBEY] wish to have time to be heard on the motion?

Mr. OBEY. Mr. Speaker, I do not.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from Louisiana [Mr. LIVINGSTON].

The motion to instruct was agreed to.

The SPEAKER. The Chair appoints the following conferees, and, without objection, reserves the right to appoint additional conferees: Messrs. OBEY, YATES, WILSON, and OLVER, Ms. PELOSI, Mr. TORRES, Mrs. LOWEY, and Messrs. SERRANO, NATCHER, LIVINGSTON, PORTER, LIGHTFOOT, CALLAHAN, and MCDADE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2492, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1993

Mr. DIXON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2492) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

□ 1610

MOTION TO INSTRUCT OFFERED BY MR. ISTOOK

Mr. ISTOOK. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Motion to instruct the conferees on H.R. 2492, offered by Mr. ISTOOK of Oklahoma.

Mr. ISTOOK of Oklahoma moves that the managers on the part of the House at the conference on the disagreeing votes of the two houses on the bill H.R. 2492 be instructed to agree to the Senate amendment numbered 30.

The SPEAKER. The gentleman from Oklahoma [Mr. ISTOOK] is recognized for 30 minutes.

Mr. ISTOOK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not intend to use all that time. The language is very clear and straightforward in the amendment. It allows the District of Columbia to continue the regulation and oversight of the Group Hospitalization and Medical Services, Inc., known as Blue Cross and Blue Shield so that authority for the District will not lapse.

Mr. DIXON. Mr. Speaker, if the gentleman will yield, I support the motion to instruct.

The SPEAKER. Does the gentleman from California [Mr. DIXON] wish to have time to be heard further on the motion?

Mr. DIXON. No, Mr. Speaker, I do not.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from Oklahoma [Mr. ISTOOK].

The motion to instruct was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. DIXON, STOKES, and DURBIN, Ms. KAPTUR, Mr. SKAGGS, Ms. PELOSI, and Messrs. NATCHER, WALSH, ISTOOK, BONILLA, and MCDADE.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1985

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1985.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURTON of Indiana. Mr. Speaker, the majority leader, a few moments ago, indicated that there was a lot of traffic and, because of that, many Members would not be able to be back here so that we could conduct business and have votes today.

There were a number of us that were concerned about the short-term CR and giving unanimous consent to allow the short-term CR to proceed.

I just wondered, Mr. Speaker, if it is proper procedure to ask unanimous consent when we have just had the majority leader say to the body as a whole that we are not going to conduct any real business today or have any votes today, when Members who may object to that unanimous-consent request are on a plane flying around up above us.

The SPEAKER. The Chair would advise the gentleman that unanimous-consent requests have been cleared through the leadership on both sides of the aisle, including the one the gentleman mentioned.

Mr. BURTON of Indiana. Mr. Speaker, I understand that. But the fact of the matter is that there are others besides those in leadership who object to those short-term CR's and would have objected when we had the opportunity.

The SPEAKER. The Chair would advise the gentleman that the decision was taken only with respect to recorded votes and that otherwise there had been scheduled not only recorded votes but other business on the floor today. And it was, in effect, a comity to Members who have concern about missing recorded votes, including one on an important resolution of discharge that this action was taken. But we undertook no decision to end all business today because of the absence of some Members.

Mr. BURTON of Indiana. Mr. Speaker, if I might make one further comment, I just feel like if we are suspending votes until tomorrow because of the weather and because Members cannot be here, Members who may object to a unanimous-consent request and who would like to be on the floor to express that reservation should have the opportunity to do so.

It seems unseemly to me that we would pass this very quickly like that, when Members who may object are not here on the floor to do so.

The SPEAKER. When such a condition impresses the minority leadership or the majority leadership, there can be a request that all business be suspended. But it is unusual, to say the least, for the House to meet and to have no business based on the fact that some Members cannot attend because of weather or other circumstances. There is almost always a condition, personal or otherwise, which keeps some Members from the floor who might object to a unanimous consent request. If they have not passed on that request to others to make the objection for them, the business will proceed consistent with the Chair's guidelines for recognition for unanimous-consent requests.

The gentleman's statement will appear in the RECORD.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 2401, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 254 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 254

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the bill (H.R. 2401) to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1994, and for other purposes. No further amendment to the committee amendment in the nature of a substitute shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in section 3 of this resolution. Pro forma amendments for the purpose of debate may be offered only by the chairman or ranking minority member of the Committee on Armed Services. Except as specified in sections 2 through 4 of this resolution, each amendment may be offered only in the order printed in the report may be offered only by a Member designated in the report, shall be considered as read, shall not be subject to

amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Except as otherwise specified in the report, each amendment printed in the report shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent. All points of order against amendments printed in the report are waived.

SEC. 2. It shall be in order at any time to consider the amendments printed in part 1 of the report of the Committee on Rules in the order printed. Such consideration shall begin with an additional period of general debate, which shall be confined to section 575 of the committee amendment in the nature of a substitute and the amendments printed in part 1 of the report and shall not exceed one hour equally divided and controlled among the chairman of the Committee on Armed Services, the ranking minority member of the Committee on Armed Services, and Representative Skelton of Missouri. If more than one of the amendments printed in part 1 of the report is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House.

SEC. 3. It shall be in order at any time for the chairman of the Committee on Armed Services or his designee to offer amendments en bloc consisting of amendments printed in part 4 of the report of the Committee on Rules accompanying this resolution or in House Report 103-236 or germane modifications thereof. Amendments en bloc shall be considered as read except that modifications shall be reported. Amendments en bloc shall be debatable for twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. For the purpose of inclusion in amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken. All points of order against amendments en bloc are waived. The original proponent of an amendment included in amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

SEC. 4. The chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by this resolution. The chairman of the Committee of the Whole may reduce to not less than five minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervention business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than fifteen minutes. The chairman of the Committee of the Whole may recognize for consideration of an amendment printed in parts 2 through 4 of the report of the Committee on Rules out of the order printed, but not sooner than one hour after the chairman of the Committee on Armed Services announces from the floor a request to that effect.

SEC. 5. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been finally adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. All time yielded is for the purpose of debate only.

□ 1620

Mr. Speaker, House Resolution 254 provides for the further consideration of H.R. 2401, the Department of Defense authorization for fiscal year 1994. As Members are aware, the House has been considering the DOD authorization under a series of rules which have provided for the orderly consideration of amendments to the issues addressed by the bill recommended by the Committee on Armed Services. House Resolution 254 provides for the disposition of the last series of amendments to H.R. 2401.

The rule provides for the consideration of three major issues: gays in the military; U.S. troops in Somalia; and, disposition of Government assets from base closure sites. In addition, the rule provides for the consideration of an additional 17 general amendments which may be, under the provisions of the rule, included in en bloc amendments.

Specifically, House Resolution 254 makes in order only those amendments printed in the report accompanying the resolution, and certain en bloc amendments if offered by the chairman or pro forma amendments if offered by the chairman or ranking minority member of the Committee on Armed Services. Generally, the rule provides that the amendments are to be considered in the order they are printed in the report, and may only be offered by the Member designated in the report. The rule waives all points of order against the amendments in the report and provides that each amendment shall be considered as read.

Again, generally, each amendment is debatable for 10 minutes equally divided and controlled by the proponent and an opponent. None of the amendments printed in the report are subject to amendment, except as specified in the report, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

The rule does specify some exceptions to the procedures I have just outlined. First, the rule provides that the amendments contained in part 1 of the report may be considered at any time, but only in the order printed. These amendments address the issue of gays in the military and are to be considered under a king-of-the-hill procedure. The rule provides that there shall be an additional period of 1 hour debate on the issue of gays in the military and that the time is to be equally divided and controlled among the chairman of the Armed Services Committee, the ranking minority member of that committee, and the gentleman from Missouri [Mr. SKELTON]. Additionally, each of the three amendments made in order by House Resolution 254 shall be debatable for 10 minutes.

Part 2 of the report makes in order an amendment relating to the issued of United States troops in Somalia and provides for 1 hour of debate on that issue. The Somalia amendment is to be offered by Representatives GEPHARDT and GILMAN.

Part 3 of the report contains those amendments relating to the disposition of Government assets at base closure sites. The rule makes in order the consideration of an amendment to be offered by the gentlewoman from Maine [Ms. SNOWE] and substitute to the Snowe amendment, which is to be offered by the gentleman from Michigan [Mr. CONYERS]. Each of those amendments is debatable for 10 minutes. A third amendment relating to base closures is made in order in part 3, but it is to be considered separately and amends neither the Snowe or Conyers amendment.

Part 4 of the report provides for the consideration of 17 general amendments to H.R. 2401. Because the House has not yet finally disposed of the amendments made in order by the third DOD authorization rule, this rule provides that any of these 17 amendments, as well as those made in order by House Report 103-236, may be considered as part of an en bloc amendment which may be offered at any time by the chairman of the Committee on Armed Services or his designee.

The rule provides that these amendments en bloc shall be considered as read, except that germane modifications shall be reported. The amendments en bloc are debatable for 20 minutes which shall be equally divided and controlled by the chairman and ranking minority member of the Armed Services Committee. The en bloc amendments are not subject to amendment nor to a demand for a division of the question in the House or the Committee of the Whole. The rule waives all points of order against the amendments en bloc and allows the original proponent of an amendment included in the en bloc amendments to insert a statement in the CONGRESSIONAL RECORD immediately before the disposition of the amendments en bloc.

As provided in rules 2 and 3, House Resolution 254 grants the Chairman of the Committee of the Whole the authority to postpone recorded votes on

any of the amendments made in order by this rule. The Chair is also granted the authority to reduce recorded votes to 5 minutes on those questions which have been postponed and which immediately follow votes of 15 minutes. The rule also permits the Chair to recognize for consideration out of the order they are printed, those amendments in parts 2 through 4 of the report. This authority, however, is granted only if the chairman of the Committee on Armed Services gives 1 hour's notice of his intention to seek such recognition.

Finally, the rule provides that at the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been finally adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The rule also provides that the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit with or without instructions.

Mr. Speaker, this rule provides the procedure which will allow the House to conclude its consideration of the Department of Defense authorization for fiscal year 1994. This subject matter is complex, but because of its vital importance to our national defense, the Committee on Rules has provided for the orderly consideration of the issues it addresses. Mr. Speaker, I urge adoption of House Resolution 254 in order that the House may finish its deliberations on H.R. 2401.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us today the fourth—and final—rule for the consideration of amendments to the National Defense Authorization Act.

I am sure all Members are as anxious as I am to finish up this debate, which has dragged on intermittently since before the August recess.

Mr. Speaker, this rule has had more sequels than Sylvester Stallone.

But at least Members can now anticipate finishing up the debate on this Defense authorization bill.

The gentleman from Texas has done an able job in summarizing the specific provisions contained in this rule, so I will confine my comments to some general observations about the rule and the bill itself.

I will begin by noting that there was some bipartisan consultation in the preparation of this fourth and final rule.

And that is exactly as it should be—especially on an issue of such importance as the defense and security of our country.

When this whole process began more than 7 weeks ago, the Democrat leadership clearly signaled its intention of structuring the debate on national defense in a partisan manner, with the amendment process stacked heavily in favor of Democrat amendments.

I am pleased to say that this misguided approach has been abandoned at this point in the debate, and we have returned to the kind of bipartisan process that has characterized national defense debates in past years.

It needs to be reiterated that the chairman of the Committee on Armed Services and the committee's ranking member are in no way responsible for the many delays and problems that we have experienced in considering this bill on the floor.

Clearly, the interference has come from other quarters.

And I hope that the return to bipartisanship—which is evident in this fourth rule—is a signal from the Democrat leadership that future consideration of national defense bills will never again be politicized.

Having said all of that, Mr. Speaker, I must still say that I am opposed to this rule.

There were several germane and constructive Republican amendments that deserved to be made in order by this rule.

These amendments include one by our new friend and colleague from the State of Washington, Ms. DUNN, and one by the gentleman from Indiana, Mr. BURTON.

The Burton amendment, in particular, should have been included—it was filed in a timely manner and has never been modified—unlike so many other amendments that were included.

Once again, I suspect that the hidden hand of our colleague from Colorado, Mrs. SCHROEDER, was responsible for quashing the Burton amendment and denying the House an opportunity to vote on the kind of special-interest project at which the Burton amendment was directed.

Turning now to the two issues which have engaged the attention of many Members, be advised that this rule makes in order consideration of amendments on the new policy concerning military service by homosexuals and on the deployment of United States troops in Somalia.

The rule provides for a balanced and fair debate on the new policy concerning homosexuals.

Three amendments, representing all sides of the question, are made in order under a king-of-the-hill procedure.

As for Somalia, the rule makes in order consideration of a bipartisan amendment to be offered by the majority leader, Mr. GEPHARDT, and the ranking member of the Committee on Foreign Affairs, Mr. GILMAN.

The Gephardt-Gilman amendment is worded identically to the Senate amendment, which was passed by a 90-to-7 vote in the other body several days ago.

Mr. GILMAN deserves particular commendation for his tenacity in pursuing this issue and demanding that the House have an opportunity to debate the wisdom—or lack thereof—of a policy that now has United States troops committed in Somalia for an indefinite stay.

Mr. Speaker, when United States troops were first sent to Somalia last December—for a short-term mission—to assist famine victims, the vast majority of the American people and their Representatives in Congress applauded.

That was 10 months ago.

Now our troops are being told by the United Nations, with an echo from the Clinton administration, that their new mission is to restore stability to Somalia.

Now that people have been fed, now that the humanitarian catastrophe has been relieved, the Somali warlords have taken advantage of the opportunity to reignite their civil war.

Mr. Speaker, "all the king's horses and all the king's men couldn't put humpty dumpty back together again."

And United States troops aren't going to put Somalia back together again either.

This is a country whose political and social culture is so different from ours that the Somali language did not even have a written alphabet until 1972.

And yet—according to the United Nations—the presence of our troops is supposed to be the answer to the tragic problems in Somalia.

Mr. Speaker, this is monstrous folly—our troops should not be there.

And this issue must be debated on the floor of Congress.

We Republicans wanted this debate 7 weeks ago—and the very week the Democrat leadership denied the House that opportunity, four more American servicemen were killed by the gangsters who fight on behalf of Somali warlords.

And, as every Member knows, three more American servicemen were killed just this past weekend—as the leadership dawdled on bringing this legislation to the floor.

Finally, we will have that debate tomorrow.

But, Mr. Speaker, the issue goes beyond the problem of our soldiers being forced into an open-ended commitment under a foreign command in a hostile environment in a distant country whose problems they have no training to solve.

The issue extends to the whole concept of peacekeeping operations and who will command U.S. troops.

You might even say it extends all the way to the question of who makes U.S. foreign policy—is it the President of the United States or the Secretary-General of the United Nations?

And that leads me, Mr. Speaker, to my final concern.

Even if so-called peacekeeping is to become the centerpiece of the Clinton

administration's military and foreign policies, are we to believe that bills such as H.R. 2401 will be adequate to meet that need?

When the vote on final passage comes later tomorrow, I will vote against the Defense authorization bill, because it represents one more installment in the systematic dismantling of America's military posture at a time when we can ill-afford to pursue such a reckless course of action.

Somalia is a sideshow—a very tragic situation—but a sideshow, nonetheless, compared to the flashpoints around the world where American interests and American troops could be swept into conflict at moment's notice. Look at the situation in Russia right now.

If one or more of the malevolent forces contending for power in Russia ever got their hands on the nuclear controls, the strategic situation in Europe and across the Atlantic would be transformed in a split-second.

Mr. Speaker, Russia is going to remain seriously unstable for the foreseeable future, not to mention the former Soviet Republics—some of which have nuclear weapons stockpiles of their own.

Think about some of the countries in the Middle East and Persian Gulf that are rushing headlong into the development of nuclear weapons, other weapons of mass destruction, and the missile systems to deliver them.

And I shudder even to think of North Korea.

Kim Il-Sung is no more than 12 months away from possessing nuclear bombs.

May God help us all if—or, when—Kim decides to stage his personal apocalypse.

My great fear, Mr. Speaker, is that a few more Defense authorization bills like H.R. 2401 will leave our military in such a posture that even so-called peacekeeping will be impossible, much less the direct defense of our country and its vital interests.

I will vote against this rule.

I will vote against this bill on final passage, and I urge all Members to do the same.

□ 1630

Madam Speaker, I reserve the balance of my time.

Mr. FROST. Madam Speaker, I ask that the Speaker remind individuals in the gallery that there should be no display during the course of the debate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MEEK). The Chair will remind all persons in the gallery that they are here as guests of the House and that manifestation of approval or disapproval of proceedings is in violation of the rules of the House.

Mr. FROST. Madam Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Madam Speaker, I thank the gentleman for yielding this time to me.

Madam Speaker, last week the Federal Government tossed $385,000 out the window. I submit for the RECORD two very recent articles from American Metal Market. The first, dated September 17, describes a transaction in which the defense logistics agency agreed to dump 4.6 million pounds of zinc on the market at 38 cents per pound—the second article, which ran Tuesday, tells us that the U.S. mint has just purchased 6.5 million pounds of the same metal, from predominantly foreign sources at nearly 43 cents per pound. This has been going on for months now and by year's end the taxpayers stand to lose $3 million.

Meanwhile, the domestic zinc industry, 700 jobs in my district alone, is staggering from the lowest international prices in over 40 years. DLA, on the left hand, is dumping its stockpile at below market prices—and the U.S. mint, on the right hand, is paying top dollar to foreign producers. I hope Vice President GORE is listening because if there was ever a more classic case for reinventing government I've yet to hear it.

Madam Speaker, since my swearing in I have struggled to work within the system. I am disappointed that my efforts to work with the Armed Services Committee and the Rules Committee on this issue have borne no fruit. My proposed amendment which was compromised down to a simple 6-month study will not be in order under today's rule on DOD. However, I was elected to create jobsand eliminate Government waste. I will not stand by while we eliminate jobs and create Government waste. I ask the support of all of my colleagues to help me put an end to this absurd policy.

WASHINGTON.—The Defense Logistics Agency said yesterday it will sell 2.311 million pounds of high-grade zinc from the national defense stockpile at prices between 38.5 cents and 37.05 cents per pound.

The agency provided this tally of zinc it awarded, based on bids registered Tuesday:

Columbus Galvanizing Inc., Columbus, Ohio, will receive 210,000 pounds at a unit price of 38.5 cents.

MSA Industrial Corp., Benton Harbor, Mich., will receive 200,000 pounds at 38.1 cents.

Follansbee Steel Co., Follansbee, W.Va.; will receive 40,000 pounds at 38.1 cents.

Phoenixx International Resources Inc., Pittsburgh, will get 132,000 pounds at 37.9 cents.

Parks Pioneer Metals Corp., Milwaukee, will get 270,000 pounds at 38.86 cents and 225,000 pounds at 37.72 cents.

Frontier Hot Dip Galvanizing Co., Buffalo, N.Y., will receive 44,000 pounds at 37.8 cents.

Reeves Southeastern Corp., Tampa, Fla., will receive 132,000 pounds at 37.5 cents.

MAC Group Inc., Detroit, will receive 132,000 pounds at 37.35 cents and 132,000 pounds at 37.1 cents.

F&S Alloys & Minerals Corp., New York, will receive 220,000 pounds at 37.31 cents and 220,000 pounds at 37.05 cents per pound.

Tally Metal Sales Inc., Glenview, Ohio, will receive 44,000 pounds at 37.29 cents and 220,000 pounds at 37.19 cents.

Southern States Galvanizing Co., Aberdeen, N.C., will get 90,000 pounds at 37.2 cents per pound.

MINT TO BUY ZINC FROM FIVE FIRMS

WASHINGTON.—The U.S. Mint said it will buy zinc from five companies at prices ranging from 42.3 cents per pound to 42.8 cents a pound for delivery to Mint fabricators during the weeks of Sept. 27 and Oct. 4.

Hochschild Partners, New York, will sell 750,000 pounds of zinc to the Mint for 42.3 cents a pound, and Big River Zinc Corp., Sauget, Ill., will sell 600,000 pounds of the metal at 42.65 cent a pound.

F&S Alloys & Minerals, New York, received a Mint contract for 1.25 million pounds of zinc at 42.7 cents a pound, and Sogem-Afrimet Inc., New York, received a contract for 750,000 pounds of zinc at 42.75 cents a pound.

Austmet Inc., Stamford, Conn., will sell 3.15 million pounds of the metal to the Mint for 42.8 cents a pound.

The bid opening was on Sept. 13.

Mr. SOLOMON. Madam Speaker, earlier I mentioned the ranking member of the Committee on Foreign Affairs, the gentleman from New York [Mr. GILMAN], who had introduced a resolution on the Somalian issue more than 7 weeks ago.

Madam Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN], and I commend him for his efforts.

Mr. GILMAN. Madam Speaker, I am pleased to associate myself with the remarks of the gentleman from New York [Mr. SOLOMON], the distinguished ranking Republican member of the Rules Committee. I wish to thank him for his support in preparing the amendment.

This rule makes in order an amendment concerning Somalia that I join in offering with the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT]. The amendment is identical to the amendment to the Senate version of this bill that was adopted by the Senate on September 9 by a vote of 90 to 7. That amendment was sponsored in the Senate by Mr. BYRD, Mr. MITCHELL, Mr. DOLE, Mr. NUNN, and a number of other distinguished Senators. It was not opposed by the administration, so obviously there is a significant consensus behind the amendment.

Two months ago I submitted my own amendment on Somalia to the Rules Committee. That amendment was stronger than the amendment that Mr. GEPHARDT and I are offering under this rule. It would have cut off funding for United States military operations in Somalia effective on December 31 of this year unless the President certified that continued United States military involvement in Somalia was vital to the national security interests of the United States.

That is a certification that I do not think the President could make in

good faith under current circumstances, because it is obvious that continued involvement in Somalia does not serve United States interests. Despite our good intentions, United States policy in Somalia has failed. It is time to try a new policy. It is time to turn this problem over to the United Nations and bring our U.S. forces home. We need to look at Somalia through the correct side of the telescope.

That was the objective of the amendment I offered 2 months ago. I would have preferred to offer that amendment today. That way we could have debated today whether to set a firm deadline for the withdrawal of United States forces from Somalia.

But it was made clear to me that the Rules Committee majority had no intention of permitting the House to debate this important question. So I reluctantly agreed to cosponsor with Mr. GEPHARDT the same amendment that passed the Senate.

That amendment does not allow for a meaningful debate today on whether to set a firm deadline for the withdrawal of U.S. forces. But it does provide that, and I quote, "the President should by November 15, 1993, seek and receive congressional authorization in order for the deployment of United States forces to Somalia to continue."

Senator BYRD made crystal clear in the Senate debate on this amendment that he is going to use all of his authority as chairman of the Senate Appropriations Committee to hold the administration to this timetable. If the administration does not seek an up or down vote on Somalia by November 15, he said he will force one. I think we can take Senator BYRD at his word on this, because he has shown remarkable courage and persistence on the issue of Somalia.

So, while the amendment that Mr. GEPHARDT and I will offer under this rule does not let us debate today whether to set a firm deadline for withdrawing from Somalia, it does however set the stage for a debate on that question by November 15. It is unfortunate that we cannot get down to the real issue today. But, to quote the Terminator, Arnold Schwarzinegger, "I'll be back."

□ 1640

Mr. FROST. Madam Speaker, for the purpose of debate only I yield 2 minutes to the gentleman from Pennsylvania [Mr. MCHALE].

Mr. MCHALE. I thank the gentleman for yielding this time to me.

Madam Speaker, I particularly appreciate the gentleman's courtesy, since he is aware that my position on this matter is different from his own.

Madam Speaker, I rise today in strong opposition to the proposed rule. While I commend the chairman and my colleagues on reporting out of committee the National Defense Authorization Act of fiscal year 1994, I respectfully disagree with the full committee's decision to remove section 316, a limitation on implementation of the Army Strategic Mobility Program.

Mr. Speaker, I attempted to obtain a rule so that this issue might be fully debated by the Members of the House. That rule was denied. As a result, I am now concerned that an issue of fundamental importance to our Nation's defense—an issue which in many ways will define the early use of force on some future battlefield—will be made without thoughtful debate and at great cost to our Nation's taxpayers. We are about to waste billions of dollars so that two of our armed services will have the redundant capability to perform exactly the same mission.

During the early days of Operation Desert Shield, the Marine Corps deployed an expeditionary brigade to northeastern Saudi Arabia. That unit was sustained for more than 30 days by supplies which had been prepacked aboard container ships some 5 years earlier. The use of such a maritime prepositioned force was a stunning success by any measure of performance.

A postwar analysis, the Mobility Requirements Study, indicated however, that on a future battlefield American forces should be prepared to introduce an armored brigade, consisting of approximately 120 M1A1 tanks, into theater during the early days of conflict. To meet this mission requirement, DOD would now like to create a completely unnecessary Army strategic mobility program which will duplicate, at a multibillion dollar cost, the Marine Corps' existing combat capability.

Prompted by the projected savings asserted by the Marine Corps, the General Accounting Office in a report prepared in April of this year, reviewing DOD's Mobility Requirements Study, urged Congress to direct the Department of Defense to compile a cost analysis of an enhancement of existing Marine Corps maritime prepositioning, rather than the creation of a new and expensive Army capability. The GAO recommendation was included in the chairman's mark at the subcommittee level, but was unwisely removed by the full committee. My amendment, now denied by the Rules Committee, would have restored the subcommittee language.

The Marine Corps enhanced MPF proposal has the capacity to bring greater combat power to bear upon an enemy force, through the expansion of a battle proven system, at a cost which is several billion dollars less than the unnecessary creation of a redundant Army strategic mobility program. This is a classic roles and missions controversy pursuant to which the American taxpayer is being asked to contribute at least $3 billion dollars so that both the Marine Corps and the Army will have the capability to perform an identical mission: early entry onto a foreign battlefield supported by prepositioned shipping.

I support the original language of section 316, as approved by the Readiness Subcommittee and strongly recommended by the GAO. Regrettably, the rule now before us prevents meaningful debate on this important matter and, therefore, Mr. Speaker, I will cast a "no" vote, while stressing that I intend to pursue this issue vigorously. Our Nation needs an MPF—we neither need nor can we afford two.

Mr. SOLOMON. Madam Speaker, let me yield 4 minutes to the very distinguished member of the Committee on Foreign Affairs, the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman for yielding this time to me.

Madam Speaker, every President's foreign policy at some point reaches a defining moment. For Presidents Kennedy and Johnson, the event was the war in Vietnam. For President Nixon, it was the opening to China and arms control with the Soviet Union. For President Reagan, it was the successful battle against communism in every corner of the globe. For President Bush it was forging an international coalition to liberate Kuwait. For President Clinton, it may rest in the sands of Somalia, or in the killing fields of the former Yugoslavia.

But, it is in Somalia where President Clinton has chosen most vividly to display his administration's guiding foreign policy which in the new jargon is called assertive multilateralism. As I see it, this amounts to our providing by our country huge commitments of manpower, expertise, and money to maintain U.N. operations over which America has no control, nor any ascertainable national interest.

In response to a grave humanitarian crisis, President Bush in December sent United States Armed Forces to Somalia to restore order and permit food to reach the people. His exit strategy was to withdraw our troops when the mission was completed and return the operation to the United Nations. The Clinton administration has acknowledged that this mission was successfully completed, but instead of bringing our troops home, they have been turned over to the United Nations. Now, the mission has broadened dramatically. Instead of feeding the hungry, we are nation-building. At our urging, the United Nations is experimenting with something unique in history, superimposing a representative government on a primitive society that has seldom experienced an effective government in the traditional sense of the word.

Currently, 3,000 U.S. forces under foreign command are providing logistics support for the operation, approximately 1,400 U.S. combat troops are

providing the fighting force for the operation, and 400 elite U.S. Army Rangers are conducting special military operations. One might ask: Is there anything else we can do?

Our troops are carrying out missions that have more to do with police work than force projection. The command and control arrangements are a nightmare of interwoven consultative arrangements among a myriad of multinational bureaucratic and military structures. Our embarrassing efforts to capture the elusive warlord Mohamed Farah Aideed risk turning him into a Somali version of the Scarlet Pimpernel.

Meanwhile, House Democrats—militant guardians of the sacred war powers resolution—are silent on its applicability to this ongoing military engagement which has to date cost 12 American lives and dozens wounded. For Democrats, who raised the War Powers Act interminably in committee and on the House floor during the Reagan and Bush administrations, we hear a roaring, deafening silence.

□ 1650

In this Chamber, the War Powers Act has become the law that dares not speak its name. Since the House passed in May a resolution in effect suspending the War Powers Act, it has languished in the other body.

Meanwhile, the battle of Mogadishu continues and American forces have been taking casualties for well over the 60- or 90-day limit in the War Powers Act.

We tread on political, diplomatic, and military landmines in more than one place in the world, but Somalia confronts us and we need a policy if the public support that is essential to any successful foreign policy is to be generated.

The Clinton doctrine envisions the United Nations as a global constable, but given its rocky start in Somalia it may already be time for a corollary.

I propose the following: Local conflicts are best handled locally, or at least by those with historical relationships to the country or region in question. The Organization of African Unity and African countries themselves should play a role in nation-building in Somalia. They more than anyone else are intimately familiar with the problems of governance in Africa. Similar historical and cultural experience and just plain proximity should give them an advantage in helping to resolve Somalia's plight.

If further assistance is necessary, look next to others familiar with Somalia such as Italy and Great Britain. Both maintained a colonial relationship with Somalia prior to its independence in 1960. Ties remain to this day and their understanding of the situation and possession of ground truth is infinitely greater than that of the United Nations or ourselves. My corollary would urgently pursue these options before burdening the United Nation or the United States with the job of nation-building in Somalia.

Mr. SOLOMON. Madam Speaker, I yield 4 minutes to the very distinguished gentleman from Louisiana [Mr. LIVINGSTON], the ranking member on the Subcommittee on Foreign Operations, Export Financing and Related Programs, of the Committee on Appropriations.

Mr. LIVINGSTON. Madam Speaker, I thank my friend for yielding this time to me.

Madam Speaker, like the gentleman from New York [Mr. SOLOMON], I object to the rule, but I take this time to express deep misgivings about the continued deployment of United States troops in Somalia.

Personally, I would like to see us take the very first opportunity to declare victory over hunger in Somalia, and pull every last soldier and marine out of that country, now, if possible.

Even the United Nations envoy to Somalia, retired American Adm. Jonathan Howe, admitted that Somalia "is a country where the United States has no strategic interests, no economic interests."

If there is no national interest involved, then why are American troops there?

We accomplished great good when in the early months of the mission we restored order from chaos and assisted the feeding of starving Somalians.

In early January, when I and my colleagues returned from an official congressional oversight visit to Somalia, I said publicly then that for all intents and purposes, our mission was already on the verge of completion. That was 8 months ago. The famine is ended. Our original mission, as defined by President Bush, is complete.

But when did the American people agree to support, or when were they even told about the idea that our mission in Somalia had changed from famine relief to something nebulous called nation-building?

Never. I feel more confident than ever in saying that the American people do not support that expanded mission, and when there is no national interest involved, and not when young Americans are being killed, and not when this administration and this Congress is decimating the American defense budget.

Since I returned from Somalia with the word that our primary goals were virtually achieved, marine Domingo Arroyo has been killed there. So has marine Anthony Bottelo and Army soldier Robert Deeks. So have Army men Ronald Richardson, Christopher Hilgert, Mark Gutting, and Keith Pearson, and so have 3 others this weekend whose names we do not yet have, and at least another 67 American service people have been wounded over there.

We have done our job, Madam Speaker, so now it is time, indeed past time, for the President to ask for congressional approval for continued deployment of United States troops in Somalia.

And as the Representatives of the American people, their sons and their daughters, we dare not give that approval lightly.

Mr. SOLOMON. Madam Speaker, assuming that the gentleman from Texas still has no speakers, I yield 3 minutes to the very distinguished gentleman from Indiana [Mr. BURTON], who has been deprived of his amendments time after time.

Mr. BURTON of Indiana. Madam Speaker, once again the Rules Committee has not allowed a very important amendment to come to the floor, and I am very concerned about that, Madam Speaker, because it involves $40 million for a Defense Women's Health Research Center in the home State of the gentlewoman from Colorado that she put in there that was not asked for by the administration or the Department of Defense and was put in, I guess, at the last minute on Tuesday, July 20.

According to the DOD, there were no hearings on this project. They designed the proposal in such a way that it could only be put in this one congressional area of the country. One of the requirements was that it has to be in close relationship to an area where there are native Americans and it can be handled through the Indian Health Service.

When you take the six criteria that are spelled out in the bill, it can only be in this one part of the country.

My amendment would say that we would allow the Secretary of Defense to put it anyplace in the country that he felt was feasible if he felt the $40 million should be expended for this purpose, and if this research facility was necessary

So I was not trying to stop the project. I was merely trying to find out if it was necessary, No. 1, and No. 2, should it be in this particular area?

But this bill specifically says that it has to be where the gentlewoman from Colorado says it should be, and I think that is a mistake. It appears to be another big pork barrel project for the gentlewoman from Colorado.

Let me just say one more thing. Today we saw another fast shuffle on this floor regarding a short-term C.R. spending bill for 2 weeks. I was going to object to that, but because we heard from the majority leader there was not going to be any votes today, many people thought because everybody is flying around over this city in airplanes and are not here to hear this debate as they should, that there would not be any request for this unanimous consent today.

Well, they did it anyhow, and as a result I did not have a chance to object

and that bill is on track and going to pass.

MOTION TO ADJOURN

Mr. BURTON of Indiana. For that reason, and because of this rule and because I cannot bring it to the floor to debate it, Madam Speaker, I move the House do now adjourn, with apologies to my colleague, the gentleman from New York [Mr. SOLOMON].

The SPEAKER pro tempore (Mrs. MEEK). Will the gentleman from Indiana withhold that motion momentarily?

Mr. BURTON of Indiana. As long as it is not going to be overlooked, Madam Speaker.

The SPEAKER pro tempore. The gentleman's debate time has expired. Does the gentleman from Indiana still insist on that motion?

Mr. BURTON of Indiana. I do insist, Madam Speaker.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will please state his inquiry.

Mr. SOLOMON. Madam Speaker, I do not believe that the motion is in writing.

I would like to continue the debate, if we could, and let the gentleman make it in a timely manner, if that is all right with the gentleman.

Mr. BURTON of Indiana. No, Madam Speaker, I do insist on my motion, with apologies to my colleague.

The SPEAKER pro tempore. The motion must be in writing.

The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Madam Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MICA].

Mr. BURTON of Indiana. Madam Speaker, there is a pending motion on the floor.

The SPEAKER pro tempore. The gentlemen from New York has insisted that the motion be in writing. Meanwhile, the gentleman from Florida [Mr. MICA] is recognized for 2 minutes.

Mr. MICA. Madam Speaker, it is sad for me to come once again before the House of Representatives to chronicle yet another bizarre chapter in United States involvement in Somalia.

Recapture in your mind the unbelievable scene we saw on our televisions over the weekend: Somalis dancing and rejoicing with glee over the remains of our destroyed United States helicopter and downed United States servicemen, our aircraft blasted out of the sky by those we came to aid.

Time and again during the past months I have pleaded with the House and the Rules Committee to vote on my amendment to withdraw the United States military from Somalia. Since that first warning each chapter America has written has been a tragedy. Just days ago U.S. helicopter gunships swooped down on a vanguard of women and children protecting rebels and machine-gunned scores of innocent and guilty.

Is this a contemporary Mylai—those we came to save now buried in common graves along the road ditches in Mogadishu? We went to Somalia to rescue its people from famine and separate them from conflict, not to kill and be killed.

Yes, our original purpose was noble. But each day of our military action must make even the most ardent supporter of our armed intervention in this civil conflict cringe.

What was to be a 2-month military backup to a humanitarian mission has become a sad and costly venture in creating a new world order. Sad because we have lost American lives. Sad because our mission has become clouded and confused. Sad because instead of heroes we have become villains. Sad because we won't have the opportunity to fully debate this important policy question.

And yes, costly—costly in precious American lives lost. Costly because we have now spent close to $1 billion on this mission. Costly because we have spent $10 in military aid for every dollar in humanitarian aid. And finally, costly because we as a nation have not decided what role we should play in the new world order.

So before we lose another American life and before we get further drawn into the quicksand of this civil conflict, let us end our military presence.

This does not mean that we must end our humanitarian effort. This does not mean that we must end our support of the United Nations' presence.

What it means is that the United States must learn that it cannot risk the lives of its sons and daughters without caution and reason. It means that we as a leader in the new world order cannot finance a military solution to every civil conflict. I urge my colleagues to vote against this rule.

□ 1700

Mr. SOLOMON. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

POINT OF ORDER

Mr. BURTON of Indiana. Madam Speaker, I have a point of order.

The SPEAKER pro tempore (Mrs. MEEK). The gentleman will state his point of order.

Mr. BURTON of Indiana. The Speaker in the chair a few moments ago asked if I would defer for a few moments while she talked to somebody up there at the desk. I did defer. Now I want my motion to be voted upon. The gentlewoman in the chair, the gentlewoman from Florida [Mrs. MEEK], has it in writing. She asked me to wait. I did wait. Now I would like the motion to be heard.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BURTON of Indiana moves that the House do now adjourn.

PARLIAMENTARY INQUIRIES

Mr. GEKAS. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GEKAS. Madam Speaker, I assume that if the gentleman's motion is considered by the Chair and put to the House, there would be an immediate vote on it. My parliamentary inquiry then would be:

If it should be defeated, would we go on with the regular order of business?

We should. I assume that we would go on with the regular order of business.

My parliamentary inquiry is:

In the event that it should not fail, that it should prevail, and this House do adjourn, is it in order to ask prior to the vote being taken that the adjournment be held over until special orders are completed?

The SPEAKER pro tempore. The Chair will not entertain that request.

Mr. FROST. Regular order, Madam Speaker.

Mr. GEKAS. Could I ask the gentleman from Indiana [Mr. BURTON], in a colloquy pursuant to my parliamentary inquiry——

Mr. FROST. Madam Speaker, I ask for regular order.

The SPEAKER pro tempore. The Chair must put the question on the motion to adjourn.

Mr. GEKAS. Madam Speaker, I have a point of parliamentary inquiry as to that.

The SPEAKER pro tempore. Will the gentleman from Pennsylvania please state his parliamentary inquiry?

Mr. GEKAS. Is it proper, is it within regular order, to ask the sponsor of the motion to adjourn to defer adjournment, even if his motion prevails, until after special orders? Would the gentleman agree to that condition?

The SPEAKER pro tempore. Once that motion is agreed to, the House must adjourn immediately.

Mr. GEKAS. Madam Speaker, I am trying to get across that we have special orders we would like to get to.

Mr. SOLOMON. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Madam Speaker, is it now true that, if the motion to adjourn is forced on the body, we would have to start this debate on this rule all over, and that we have just 5 minutes left on the debate today, and we could do that without further inconveniencing any of the Members if the gentleman would just withhold for 5 minutes?

Madam Speaker, we have a lot of very, very important business to take care of on this floor tomorrow, and I

would plead with the gentleman from Indiana [Mr. BURTON] to withhold his motion for 5 minutes.

The SPEAKER pro tempore. If the House adjourns now, the resolution will be unfinished business tomorrow.

Mr. SOLOMON. And we would be starting all over again, Madam Speaker?

The SPEAKER pro tempore. Not necessarily.

Mr. LIVINGSTON. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LIVINGSTON. Might I inquire of the Chair if it is possible to vote on a motion to adjourn by voice vote?

The SPEAKER pro tempore. Yes. If the ayes have it, then the House could adjourn.

Mr. FROST. Madam Speaker, once again I must ask for regular order.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from Indiana [Mr. BURTON].

The motion was agreed to; accordingly (at 5 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 28, 1993, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1935. A letter from the Comptroller General, the General Accounting Office, transmitting a review of the President's third special impoundment message for fiscal year 1993, pursuant to 2 U.S.C. 681; to the Committee on Appropriations and ordered to be printed.

1936. A letter from the Comptroller General, the General Accounting Office, transmitting the President's fourth special impoundment message for fiscal year 1993, pursuant to 2 U.S.C. 681; to the Committee on Appropriations and ordered to be printed.

1937. A letter from the Secretary of Housing and Urban Development, transmitting a status report on the project-based component of the section 8 rental certificate program, pursuant to 42 U.S.C. 1490m note; to the Committee on Banking, Finance and Urban Affairs.

1938. A letter from the Secretary of Education, transmitting final regulations for School, College, and University Partnerships Programs, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1939. A letter from the Secretary of Education, transmitting final regulations for the National Institute on Disability and Rehabilitation Research, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1940. A letter from the Secretary of Education, transmitting notice of final funding priorities—Program for Children with Severe Disabilities, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1941. A letter from the Inspector General, Department of Health and Human Services, transmitting the financial review of the National Institute of Environmental Health Sciences' use of Superfund moneys, pursuant to 31 U.S.C. 7501 note; to the Committee on Energy and Commerce.

1942. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a memorandum of justification to support regional peacekeeping efforts in Liberia, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on Foreign Affairs.

1943. A communication from the President of the United States, transmitting a report on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council, pursuant to Public Law 102–1, section 3 (105 Stat. 4) (H. Doc. No. 103–139); to the Committee on Foreign Affairs and ordered to be printed.

1944. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1945. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting notice on leasing systems for the Western Gulf of Mexico, sale 143, scheduled to be held in September 1993, pursuant to 43 U.S.C. 1337(a)(8); to the Committee on Natural Resources.

1946. A letter from the Secretary of Transportation, transmitting the first report on the Transition to Quieter Airplanes; to the Committee on Public Works and Transportation.

1947. A letter from the Secretary for Transportation, transmitting the Department's fiscal year 1991 report titled, "Highway Safety Performance—Fatal and Injury Accident Rates on Public Roads in the United States", pursuant to 23 U.S.C. 401 note; to the Committee on Public Works and Transportation.

1948. A letter from the United States Trade Representative, transmitting notification of terminated action taken under section 301 of the Trade Act with respect to beer brewed or bottled in Ontario, Canada; to the Committee on Ways and Means.

1949. A letter from the Principal Deputy Comptroller, Comptroller of the Department of Defense, transmitting notification of a change of intent to derive funding from the Navy fiscal year 1993–95 appropriation to the Defensewide fiscal year 1993–94 appropriation to assist the Republic of Russia in the dismantlement of strategic nuclear delivery vehicles; jointly, to the Committees on Appropriations and Armed Services.

1950. A letter from the Secretary of Health and Human Services, transmitting the interim report on the effectiveness of providing disease prevention and health promotion services to Medicare beneficiaries; jointly, to the Committees on Energy and Commerce and Ways and Means.

1951. A letter from the Secretary of Housing and Urban Development, transmitting his determination to award a contract to the Massachusetts Housing Finance Agency for public sector asset management of multifamily mortgagee-in-possession and HUD-owned projects; jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

(Omitted from the Record of September 27, 1993)

Mr. MILLER of California: Committee on Natural Resources. H.R. 2399. A bill to provide for the settlement of land claims of the Catawba Tribe of Indians in the State of South Carolina and the restoration of the Federal trust relationship with the Tribe, and for other purposes, with an amendment (Rept. 103–257, Pt. 1). Ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on September 23, 1993, the following report was filed on September 24, 1993]

Mr. HOYER: Committee of Conference. Conference report on H.R. 2403. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103–256). Ordered to be printed.

(Submitted September 27, 1993)

Mr. MILLER of California: Committee on Natural Resources. H.R. 2399. A bill to provide for the settlement of land claims of the Catawba Tribe of Indians in the State of South Carolina and the restoration of the Federal trust relationship with the Tribe, and for other purposes, with an amendment (Rept. 103–257, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON of Indiana:

H.R. 3134. A bill to amend the Federal Aviation Act of 1958 to require the use of dogs at major airports for the purpose of detecting plastic explosives and other devices which may be used in airport piracy and which cannot be detected by metal detectors; to the Committee on Public Works and Transportation.

By Mr. GEKAS:

H.R. 3135. A bill to amend title 18, United States Code, to provide a death penalty for the murder of foreign visitors; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.R. 3136. A bill to establish requirements applicable to rent-to-own transactions; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HOBSON (for himself and Mr. SAWYER):

H.R. 3137. A bill to amend the Social Security Act to improve the exchange of information relating to health care services, to provide for measurement of health care quality, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, Armed Services, Veterans' Affairs, Education and Labor, and Post Office and Civil Service.

By Mr. SKAGGS (for himself, Mr. HUGHES, Mr. HYDE, Mrs. SCHROEDER, Mr. SENSENBRENNER, Mr. SYNAR, Mr. FROST, Mr. MACHTLEY, Mr. STARK, Mr. KOPETSKI, Ms. NORTON, Mr. TOWNS, Mr. KLUG, Mr. SHAYS, Mr. EVANS, Mrs. MINK, Mr. MANN, Mr. HINCHEY, Mr. HILLIARD, Mr. INSLEE, Ms. SHEPHERD, Mr. FILNER, Mr. BARCA of Wisconsin, and Mrs. THURMAN):

H.R. 3138. A bill to amend title 28, United States Code, to require public disclosure of settlements of civil actions to which the United States is a party; to the Committee on the Judiciary.

By Mr. WISE:

H.R. 3139. A bill to amend the Japan-United States Friendship Act to recapitalize the

Friendship Trust Fund, to broaden investment authority, and to strengthen criteria for membership on the Japan-United States Friendship Commission; to the Committee on Foreign Affairs.

By Mr. NATCHER:

H.J. Res. 267. Joint resolution making continuing appropriations for the fiscal year 1994, and for other purposes; to the Committee on Appropriations.

By Mr. BEILENSON (for himself, Mr. PORTER, Mr. ACKERMAN, Mr. ANDREWS of Texas, Mr. ANDREWS of New Jersey, Mr. ANDREWS of Maine, Mr. BACCHUS of Florida, Mr. BAESLER, Mr. BATEMAN, Mr. BARRETT of Wisconsin, Mr. BERMAN, Mr. BOEHLERT, Mr. BORSKI, Mr. BOUCHER, Ms. BROWN of Florida, Mr. BROWN of Ohio, Ms. BYRNE, Mr. CALLAHAN, Mr. CARDIN, Mrs. CLAYTON, Mr. CLEMENT, Mr. CONYERS, Mr. COOPER, Mr. COPPERSMITH, Mr. CRAMER, Mr. DEFAZIO, Mr. DELLUMS, Mr. DE LUGO, Mr. DIXON, Mr. DURBIN, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FAWELL, Mr. FAZIO, Mr. FILNER, Mr. FISH, Mr. FORD of Michigan, Mr. FRANK of Massachusetts, Mr. FROST, Ms. FURSE, Mr. GEJDENSON, Mr. GILMAN, Mr. GONZALEZ, Mr. GOODLING, Mr. GENE GREEN of Texas, Mr. GREENWOOD, Mr. GUNDERSON, Mr. GUTIERREZ, Mr. HAMBURG, Mr. HANSEN, Mr. HASTINGS, Mr. HILLIARD, Mr. HINCHEY, Mr. HOCHBRUECKNER, Mr. HUGHES, Mr. HUTTO, Mr. JEFFERSON, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of South Dakota, Mrs. KENNELLY, Mr. KILDEE, Mr. KLECZKA, Mr. KOPETSKI, Mr. KREIDLER, Mr. LANTOS, Mr. LAROCCO, Mr. LEACH, Mr. LEHMAN, Mr. LEVIN, Mr. LEVY, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. MACHTLEY, Mrs. MALONEY, Ms. MARGOLIES-MEZVINSKY, Mr. MARTINEZ, Mr. MATSUI, Mr. MCDERMOTT, Mr. MCHALE, Mr. MEEHAN, Mrs. MEEK, Mrs. MEYERS of Kansas, Mr. MILLER of California, Mr. MINETA, Mrs. MINK, Mr. MORAN, Mrs. MORELLA, Mr. MURPHY, Mr. NEAL of North Carolina, Ms. NORTON, Mr. OLVER, Mr. PALLONE, Mr. PARKER, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PETERSON of Florida, Mr. PICKETT, Mr. PRICE of North Carolina, Mr. RANGEL, Mr. REGULA, Mr. REYNOLDS, Mr. RICHARDSON, Mr. ROSE, Mr. SABO, Mr. SANDERS, Mr. SAWYER, Mr. SCHUMER, Mr. SERRANO, Mr. SHAYS, Mr. SKEEN, Mr. SLATTERY, Mr. SMITH of Texas, Mr. SMITH of Iowa, Mr. SPENCE, Mr. SPRATT, Mr. STARK, Mr. STOKES, Mr. SWETT, Mr. SYNAR, Mr. TANNER, Mrs. THURMAN, Mr. TORRES, Mr. TORRICELLI, Mr. TOWNS, Mr. TRAFICANT, Mr. TUCKER, Mr. UNDERWOOD, Mrs. UNSOELD, Mr. VALENTINE, Mr. VENTO, Mr. VISCLOSKY, Mr. VOLKMER, Mr. WALSH, Mr. WASHINGTON, Ms. WATERS, Mr. WAXMAN, Mr. WILSON and Ms. WOOLSEY):

H.J. Res. 268. Joint resolution designating the week beginning October 25, 1993, as "World Population Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. BURTON of Indiana:

H. Con. Res. 155. Concurrent resolution expressing the sense of the Congress that a comprehensive program be developed and implemented by the Federal Government to deal with the Human Immunodeficiency Virus [HIV] and Acquired Immuno Deficiency Syndrome [AIDS]; to the Committee on Energy and Commerce.

By Mr. MCCOLLUM:

H. Res. 257. Resolution providing for the consideration of the joint resolution (H.J. Res. 38) proposing an amendment to the Constitution of the United States with respect to the number of terms of office of Members of the Senate and the House of Representatives; to the Committee on Rules.

By Mr. SOLOMON:

H. Res. 258. Resolution providing for the consideration of the bill (H.R. 493) to give the President legislative, line-item veto rescission authority over appropriations bills and targeted tax benefits in revenue bills; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS:

H.R. 3133. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Elissa;* to the Committee on Merchant Marine and Fisheries.

By Mr. CALLAHAN:

H.R. 3140. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsements for employment in the coastwise trade and on the Great Lakes for the vessel *Marine Star;* to the Committee on Merchant Marine and Fisheries.

By Ms. CANTWELL:

H.R. 3141. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Viking,* to the Committee on Merchant Marine and Fisheries.

By Mr. SHAYS:

H.R. 3142. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Gusto;* to the Committee on Merchant Marine and Fisheries.

By Mr. YOUNG of Alaska:

H.R. 3143. A bill to authorize issuance of a certificate of documention with appropriate endorsement for the vessel *Grizzly Processor;* to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 58: Mr. COBLE, Mr. SAXTON, Mr. CASTLE, and Mr. GILCHREST.

H.R. 84: Mr. KILDEE, Mrs. COLLINS of Illinois, Mr. BONIOR, Mr. HALL of Ohio, Mr. WATT, Mrs. MALONEY, Mr. KOPETSKI, Mr. PALLONE, Mr. PASTOR, Mr. MARTINEZ, Mr. BLACKWELL, Mr. LANCASTER, Mrs. LLOYD, Mr. ACKERMAN, Mr. JOHNSON of Georgia, Mr. RAHALL, Mr. MILLER of California, Ms. MCKINNEY, Mr. CLEMENT, Mr. SISISKY, Mr. THORNTON, Mr. TOWNS, and Mr. FORD of Tennessee.

H.R. 127: Mr. ORTON.

H.R. 323: Mr. SMITH of Michigan.

H.R. 509: Mr. PETRI.

H.R. 521: Mr. THOMAS of California, Mr. CONDIT, Mr. LEVIN, Mr. EDWARDS of Texas, and Mr. DOOLEY.

H.R. 846: Mr. CRAPO, Mr. DOOLEY, Mr. CLINGER, Mr. MILLER of Florida, Mrs. ROUKEMA, and Mr. FAZIO.

H.R. 987: Mr. DERRICK.

H.R. 1048: Mr. DUNCAN, Mr. KOPETSKI, Mr. PETRI, Mr. MACHTLEY, and Mr. SKELTON.

H.R. 1078: Mr. SMITH of New Jersey.

H.R. 1080: Mr. SMITH of Texas.

H.R. 1133: Mr. TEJEDA, Mr. DICKS, Mr. WELDON, Ms. PRYCE of Ohio, Mr. BLUTE, Mr. INSLEE, Mr. HILLIARD, Mr. PETERSON of Florida, Mr. MCCURDY, and Mr. SCHIFF.

H.R. 1141: Ms. BYRNE.

H.R. 1164: Mr. WYNN, Mr. HOAGLAND, and Mr. GUTIERREZ.

H.R. 1293: Mr. PARKER.

H.R. 1381: Mr. MURPHY.

H.R. 1399: Mr. FAWELL.

H.R. 1529: Mr. HALL of Texas and Mr. QUILLEN.

H.R. 1586: Mr. SANDERS.

H.R. 1709: Mr. ALLARD, Mr. REGULA, Mr. GOODLATTE, Ms. MOLINARI, Mr. CONDIT, Mr. SCHAEFER, Mr. HAMBURG, Mr. CAMP, Mr. ARMEY, Mr. BAKER of California, Mr. DICKEY, Mr. BILBRAY, Mr. MCCOLLUM, Mr. MCCRERY, Mr. TALENT, Mr. MACHTLEY, Mrs. VUCANOVICH, Mr. CLEMENT, Mr. JACOBS, Mr. LEWIS of Georgia, Mr. BROOKS, Mr. KOPETSKI, Mr. GORDON, Mr. PORTMAN, Mr. BROWN of Ohio, Mr. MILLER of Florida, Mr. BROWN of California, Mr. HALL of Ohio, Mr. HINCHEY, Mr. DARDEN, Mr. KILDEE, Mr. KASICH, Mr. MCINNIS, Mr. DORNAN, Mr. FRANKS of Connecticut, Mr. DANNER, Mr. FISH, Ms. MCKINNEY, Mr. REED, Mr. DIAZ-BALART, and Mr. DEUTSCH.

H.R. 1764: Mr. UPTON.

H.R. 1766: Mr. UPTON.

H.R. 1774: Mr. UPTON.

H.R. 1873: Mr. DIXON.

H.R. 1886: Mr. MARKEY.

H.R. 1897: Mr. SMITH of New Jersey, Mr. GENE GREEN of Texas, and Mr. WYNN.

H.R. 1961: Ms. DELAURO and Mr. SHAYS.

H.R. 2002: Mr. SMITH of New Jersey.

H.R. 2021: Mr. GENE GREEN of Texas.

H.R. 2092: Mr. LIPINSKI, Mr. ABERCROMBIE, Mrs. UNSOELD, Mr. BREWSTER, and Mr. LANCASTER.

H.R. 2110: Mr. NADLER, Mr. STUDDS, Mr. RANGEL, and Mr. EVANS.

H.R. 2135: Mr. HUTTO, Mr. FILNER, Mr. OBERSTAR, Mr. KREIDLER, Mr. HOUGHTON, Mr. COPPERSMITH, Mr. ENGLISH of Oklahoma, and Mr. DEFAZIO.

H.R. 2210: Mrs. MALONEY.

H.R. 2241: Mr. BISHOP and Mr. PICKLE.

H.R. 2249: Mrs. SCHROEDER.

H.R. 2406: Mr. BUYER and Mr. CANADY.

H.R. 2434: Mr. KINGSTON.

H.R. 2447: Mr. ANDREWS of Maine, Mr. WAXMAN, Mr. HASTINGS, and Mrs. MEYERS of Kansas.

H.R. 2453: Mr. MCHUGH, Mr. PARKER, and Mr. HYDE.

H.R. 2462: Mr. LAUGHLIN.

H.R. 2488: Mr. CARDIN and Mr. VENTO.

H.R. 2602: Mr. ROYCE.

H.R. 2663: Mr. WALSH, Mr. LANTOS, Mr. HAYES, Mr. KILDEE, Mr. EVANS, Mr. YOUNG of Alaska, Mr. GLICKMAN, and Mr. BISHOP.

H.R. 2706: Mr. OLVER, Mr. SANDERS, Mr. EDWARDS of California, Mr. SLATTERY, Mr. BERMAN, Ms. NORTON, and Mr. MURPHY.

H.R. 2841: Ms. DANNER and Mr. BARLOW.

H.R. 2890: Mr. FILNER, Mr. EDWARDS of California, Ms. NORTON, Mr. FOGLIETTA, Mr. LIPINSKI, and Mr. PORTER.

H.R. 2898: Mr. GUTIERREZ.

H.R. 2957: Mr. LIVINGSTON, Mr. BEREUTER, and Mr. MANN.

H.R. 3020: Mr. PASTOR, Mr. DEFAZIO, and Mr. COLEMAN.

H.R. 3031: Ms. BYRNE.

H.R. 3062: Mr. ARCHER.

H.R. 3075: Mr. MACHTLEY, Mr. JEFFERSON, Mr. SCHUMER, Mr. STOKES, Mr. STUDDS, Mr. REYNOLDS, Mrs. ROUKEMA, Miss COLLINS of Michigan, and Ms. DANNER.

H.J. Res. 9: Mr. FAWELL and Mr. BAKER of California.

H.J. Res. 131: Mr. SHAYS, Mr. TEJEDA, Mr. EDWARDS of Texas, Mrs. BENTLEY, Mr. JOHNSON of Georgia, Mr. ACKERMAN, Mr. LEWIS of California, Mr. NEAL of Massachusetts, Mr. HAYES, Mr. BARLOW, Mr. FAZIO, Mr. CRAMER, Mr. COOPER, Mr. MURPHY, Mr. MARKEY, Mr. MCDADE, Mr. LEVIN, Mr. DICKS, Mr. EWING, Mr. REYNOLDS, Mr. HOYER, Mr. HYDE, Mr. WHITTEN, Mr. HORN, and Mr. CRANE.

H.J. Res. 148: Mr. OBEY, Mr. WHEAT, and Mr. SUNDQUIST.

H.J. Res. 202: Mr. BECERRA.

H.J. Res. 246: Mr. ACKERMAN, Mr. APPLEGATE, Mrs. BENTLEY, Mr. BLUTE, Mr. BORSKI, Mr. COYNE, Mr. DEFAZIO, Mr. DE LA GARZA, Mr. FOGLIETTA, Mr. FROST, Mr. GALLO, Mr. GORDON, Mr. HOCHBRUECKNER, Mr. HYDE, Ms. KAPTUR, Mr. KENNEDY, Mr. KING, Mr. KLECZKA, Mr. LAFALCE, Mr. LEVIN, Mr. LEVY, Mr. LIPINSKI, Mr. MCDERMOTT, Mr. MCHUGH, Mr. MCNULTY, Mr. MACHTLEY, Mr. MARKEY, Mr. MARTINEZ, Mr. NEAL of Massachusetts, Mr. QUINN, Mr. ROMERO-BARCELO, Mr. SMITH of New Jersey, Mr. UNDERWOOD, Mr. WALSH, Mr. WELDON, and Mr. WOLF.

H. Con. Res. 73: Mr. STRICKLAND and Mr. RUSH.

H. Con. Res. 126: Mr. SAWYER, Mr. HUTTO, Mr. COSTELLO, Mr. TALENT, and Mr. YATES.

H. Con. Res. 140: Mr. FOGLIETTA, Mr. WAXMAN, Mr. HINCHEY, Mr. PAXON, Mr. LIPINSKI, Mrs. MORELLA, Mr. MENENDEZ, and Mr. SAXTON.

H. Res. 134: Ms. SNOWE and Mr. MANZULLO.

H. Res. 154: Mr. WELDON.

H. Res. 236: Mr. TUCKER, Mr. MATSUI, Mr. CLEMENT, Ms. NORTON, Mr. KIM, Mr. PETRI, and Mr. COX.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1985: Mr. MCDERMOTT.